Request for Proposal ("RFP")

Professional Floral Displays Program Citywide

Requisition No.: 74209

Specification No.: 110828

Required for use by:
CITY OF CHICAGO
(Department of Transportation)
Issued by:
CITY OF CHICAGO
(Department of Procurement Services)
ONE (1) ORIGINAL AND TWO (2) COPIES OF THE RESPONSE TO BE SUBMITTED

All of the responses must be addressed and returned to:

Jamie L. Rhee, Chief Procurement Officer
Department of Procurement Services
City Hall-Bid & Bond-Room 301
121 N. LaSalle Street
Chicago, Illinois 60602

Responses must be received no later than 4:00 p.m. Central Standard Time, on October 18, 2013

Responses must be submitted in sealed envelope(s) or packages(s). The outside of the package or envelope must clearly indicate the project description, "**RFP for Professional Floral Displays Program Citywide"**, the requisition number and the time and the date specified for receipt. The name and address of the Respondent must also be clearly printed on the outside of the envelope(s) or package(s).

RAHM EMANUEL
MAYOR

JAMIE L. RHEE
CHIEF PROCUREMENT OFFICER

Hugo Zapata-Martínez, Senior Procurement Specialist, (312) 744-1087

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I. GENERAL INVITATION

Purpose of the Request for Proposal

The City of Chicago ("City"), acting through its Department of Transportation ("Department"), invites the submission of proposals from firms with expertise and experience in PROFESSIONAL FLORAL DISPLAYS PROGRAM CITYWIDE ("Services"), in accordance with the Scope of Services.

Companies with demonstrated experience in this area, and with an interest in making their services available to the City of Chicago, are invited to respond to this RFP.

The objective for the selected Respondent (hereinafter "Contractor") is to perform all tasks and functions associated with the Services in accordance with the Scope of Services.

The work contemplated is professional in nature. It is understood that the Contractor acting as an individual, partnership, corporation or other legal entity, is of professional status, licensed to perform in the State of Illinois and licensed for all applicable professional discipline(s) requiring licensing and will be governed by the professional ethics in its relationship to the City. It is also understood that all reports, information, or data prepared or assembled by the Contractor under a contract awarded pursuant to this RFP are confidential in nature and will not be made available to any individual or organization, except the City, without the prior written approval from the City. Any contract resulting from this document will require the Contractor to execute a statement of confidentiality.

The Contractor shall be financially solvent and each of its members if a joint venture, its employees, agents or subcontractors of any tier shall be competent to perform the services required under this RFP document.

In the event you do not have download capability, all materials may be obtained from the City of Chicago Department of Procurement Services' Bid & Bond Room, located in Room 301, City Hall, 121 N. LaSalle Street in Chicago, IL 60602.
A Respondent who chooses to download an RFP solicitation instead of picking it up in person will be responsible for checking the aforementioned web site for clarifications and/or addenda, if any. Failure to obtain clarifications and/or addenda from the web site shall not relieve Respondent from being bound by any additional terms and conditions in the clarifications and/or addenda, or from considering additional information contained therein in preparing your Proposal. Note, there may be multiple clarifications and/or

addenda. Any harm to the Respondent resulting from such failure shall not be valid grounds for a protest against award(s) made under the solicitation.

All Respondents are responsible for obtaining all RFP materials. If Respondent chooses to download and print RFP document, the Respondent must contact the City of Chicago, Department of Procurement Services, Bid & Bond Room by emailing BidandBond@cityofchicago.org to register Respondent's company as an RFP document holder, which will enable the Respondent to receive any future clarifications and/or addendum related to this RFP.

DEFINITIONS

"Agreement" means the City of Chicago's Professional Services Agreement, including all exhibits attached to it and incorporated in it by reference, and all amendments, modifications, or revisions made in accordance with its terms, as attached in this RFP in Attachment 6.

Chief Procurement Officer ("CPO") means the Chief Procurement Officer for the City of Chicago.

"Commissioner" means the chief executive officer for the City of Chicago, Department of Transportation.

"Contractor" means the entity awarded a contract pursuant to the City's RFP process, and includes the Contractor's subcontractors.

"Department" means the City of Chicago Department of Transportation and other participating City Departments.

"Proposals" means the documents submitted in response to this RFP.

"Respondent" means the individuals or business entities submitting a proposal in response to this RFP.

BACKGROUND

The City of Chicago Department of Transportation (CDOT) requests submission of proposals from skilled and experienced firms to provide professional, innovative design services, specialized installation services with high quality contract grown plant material, and intensive horticultural care services using best practices, for high profile floral displays at highly visible destination sites and facilities. Floral Displays include seasonal hanging baskets, sidewalk planters, window boxes, green roofs, and landscaped areas and beds. Locations are within City of Chicago (City) destination sites that require attention to detail and precision. Refer to Attachment 1 for a list of the program locations to be covered by the Agreement, as they are known at this time.

GENERAL INFORMATION AND GUIDELINES

Communications Between the City of Chicago and Respondents

A. Submission of Questions or Requests for Clarifications

Respondents must communicate only with the Department of Procurement Services. All questions or requests for clarification must be in writing, sent by e-mail, and directed to the attention of Hugo Zapata-Martínez, Senior Procurement Specialist,hzapata@cityofchicago.org, Department of Procurement Services, Room 806, City Hall and must be received no later than 4:00 p.m. Central Time, on September 27, 2013. Respondents are encouraged, but not required, to submit questions one (1) week prior to the scheduled Pre-Proposal Conference.

All questions and requests for clarification must be submitted via e-mail. The subject line of the email must clearly indicate that the contents are "Questions and Request for Clarification" about the RFP and are "Not a Proposal" and must refer to "Request for Proposal ("RFP") for PROFESSIONAL FLORAL DISPLAYS PROGRAM CITYWIDE, Specification No. 110828." No telephone calls will be accepted unless the questions are general in nature.

RFP Information Resources

Respondents are solely responsible for acquiring the necessary information or materials. Information for preparing a response to this RFP can be located in the following areas of the City's website: www.cityofchicago.org/Procurement:

- Search MBE/WBE Directory Database
- Pre-Bid/Proposal Conference Attendees
- Addenda and Exhibits, if any.

Procurement Timetable

The timetable for the RFP solicitation is summarized below. Note that these are target dates and are subject to change by the City.

Key Activity	Target Date
City Issues RFP	September 9, 2013
Pre-Proposal Conference	September 23, 2013
Post-Conference Questions Due	September 27, 2013
Addendum Response to Clarifying Questions	October 4, 3013
Proposals Due	October 18, 2013

II. SCOPE OF SERVICES

A. Program Description

The City of Chicago Department of Transportation (CDOT) requests submission of proposals from skilled and experienced firms to provide professional, innovative design services, specialized installation services with high quality contract grown plant material, and intensive horticultural care services using best practices, for high profile floral displays at highly visible destination sites and facilities. Floral Displays include seasonal hanging baskets, sidewalk planters, window boxes, green roofs, and landscaped areas and beds. Locations are within City of Chicago (City) destination sites that require attention to detail and precision. Refer to **Attachment 1** for a list of the program locations to be covered by the Agreement, as they are known at this time.

The purpose of this RFP is to allow interested full-service Respondents professionally skilled in the design, installation, and care of imaginatively and artistically designed living floral displays, to submit proposals demonstrating a work plan for the implementation of the required project components. The City will require the Selected Respondent (SR) to perform any and all work necessary to maintain healthy and vibrant floral displays and sites.

The RFP has three objectives:

(1) To obtain professional design and planning for floral displays including seasonal hanging baskets, sidewalk planters, window boxes, green roofs, landscaped areas and beds;

(2) To obtain professional and experienced installation services for the

floral displays seasonal hanging baskets, sidewalk planters, window boxes, green roofs, landscaped areas and beds; and

(3) To provide professional intensive care services using the best horticultural practices to promote the health and optimal appearance at all times of floral displays including seasonal hanging baskets, sidewalk planters, window boxes, green roofs, landscaped areas and beds.

The SR shall assure that all services that require the exercise of professional skills or judgment are accomplished by professionals qualified and competent in the applicable discipline and are appropriately licensed and/or certified in the State of Illinois.

B. Term of Services

The initial term of the Agreement is estimated to be 5 years from the effective date of the Agreement. In addition, the Agreement may provide that the City may, at its discretion, extend the Agreement for up to two (2) additional years to provide ongoing services.

C. General Description of Services

1. The SR will provide professional floral design, installation, and maintenance services inclusive of all required labor, supervision, materials, supply, delivery, tools, equipment, accessories, transportation, fuel, disposal, integrated pest management, plant disease program, and fertilization program to perform all services necessary to provide vibrant and healthy floral displays to the standards specified herein to ensure that the required results are achieved consistently throughout the term of the Agreement. The description of services is intended to be general in nature and is neither a complete description nor a limitation on the services that the SR is to provide under the Agreement.

2. The SR will perform all services in accordance with any applicable local, state, and federal laws, and ordinances, policies, standards, and procedures of the City of Chicago.

3. The SR must implement intensive horticultural practices that include flower and foliage care, watering, fertilizing, application of fungicides and pesticides, integrated pest management, inspections, landscape care, weeding, and general care. All plants, soil, and other materials and their care must conform to the City's standards.

4. The SR must specify a single individual who will be authorized to act and will act as the spokesperson and main point of contact during the Agreement term, will submit design, work plans, cost estimates, and schedules, and will meet seasonally, or as requested, with CDOT.

5. It is at CDOT's discretion to increase or decrease services at a project location.

D. Detailed Description of Services

Below is a detailed description of required services to be provided indicating the minimal requirements necessary. In addition, the description demonstrates the demanding nature of the project. The City requires any and all work necessary to ensure healthy and vibrant floral displays.

Floral displays include hanging baskets, sidewalk planters, window boxes, green roofs, and landscaped areas and beds. Refer to **Attachment 1** for program locations and typical seasons requiring service; and to **Attachment 2** for the program schedule. The Summer Growing Seasonal display contains flora of many species that proliferate during the months of May to October. The Winter Seasonal display contains such things as coniferous boughs, deciduous branches, live shrubs, and ornamental decorations during the months of November to March. In addition, some locations have a Spring Seasonal Display during the months of April and May and a Fall Seasonal Display during the months of October and November.

1. PLANNING AND DESIGN

Work Plans and Cost Estimates: Submit written seasonal work plans and cost estimates. In developing the work plan, CDOT and the SR shall determine the services required for each project location. The seasonal work plan shall detail the implementation of these services, including but not limited to, tasks, schedules, and personnel. The cost estimates must detail all direct costs and labor associated with the execution of the season's work plan as outlined in the Schedule of Compensation and within the Scope of Services. All cost estimates will be subject to the final approval of CDOT. CDOT will acknowledge acceptance of cost estimate with a signature and date on the cost estimate.

Surveys: Survey existing planting locations for planting feasibility for the up coming season. Record an account of planter/basket type, quantity, hardware condition, aspect, sun and wind exposure, actual street range, address, to determine the amount of suitable plant material and or decorative material.

Concepts: Submit conceptual ideas of the proposed season for review, before actual designs. This will include such things as theme, objective, space, and color scheme.

Design: Submit a comprehensive design plan including a complete list of plant genus species, cultivars, photographs, plant propagator, quantities, pot size, and plant description including light, water, and pest and disease management requirements, color, and habit. All design drafts must be submitted in hard copy and electronic format compatible with City software or design software must be provided. Review designs with CDOT, revise as needed, and upon final acceptance submit in both hard copy(s) and electronic format. All designs are proprietary and must not be distributed, shared, or copied without approval from CDOT.

Plant Materials: All plant material for each season must be ordered, purchased, and grown from state certified greenhouse growers. Order confirmations must be

submitted within two (2) weeks of design approval. Plant substitutions must be approved by CDOT.
Growing Medium: Identify all growing medium for each location. All growing medium must be approved by CDOT.
Hardware: Purchase and/or replace all damaged or missing hardware as needed. Clean and/or paint hardware and containers as needed.

2. INSTALLATION

Growing Medium: At the beginning of each season all locations must be evaluated for proper drainage and if needed, remedied prior to the installation of approved growing medium and plants. All locations will require additional growing medium.
Mockup: Prior to all seasonal floral display installations, mockup sessions may be required with CDOT and the SR. Mock up sessions will take place 24 hours prior to actual installation. Delivery of all material is required at all mock up sessions.
Installation: All plants must be watered at the time of location delivery prior to installation. All material required to complete the design must be at the project location at the time of installation. Install plant material according to the approved design. Actual installation is weather dependent. To ensure establishment, install other subsequent tender plant material when spring temperatures rise to safe consistent levels. In order to achieve the design intent SR must perform on site adjustments.
Planting Site and Surrounding Area: At all times keep project locations clean; power wash as necessary or as directed.

3. MAINTENANCE

Monitoring: Project locations must be routinely monitored throughout each season or as directed by CDOT. Findings must be detailed on a daily work report and submitted to CDOT electronically upon completion of each visit.
Watering/ Fertilization: Locations will require water and fertilizer to ensure that the original design is adhered to and all plants are in a healthy and vibrant condition throughout the entire season. Fertilizer analysis must be approved by CDOT. Existing irrigation system start up, monitoring, and adjustments will be required.
Plant Care: All plants must be properly cared for and trimmed in order to achieve the plant's maximum representative potential and original design intent. Plants will require removal of dead and dying flowers, dead or conflicting branches and stems, proliferating stems, dried foliage, or as directed by CDOT. Some plants may require staking, mowing, or anti-desiccants.
Pests and Disease: Keep all project locations free of insects, rodents, pigeons, and diseases using integrated pest management strategies to ensure that the original design is adhered too and all plants are in a healthy and vibrant condition throughout the entire season.
Litter removal: Remove and properly dispose any refuse or litter.
Weeding: All planting locations require routine weed removal whereby the weed and its root or seed are eliminated from the location.

Mulching: Project locations may require mulch and or compost to maintain adequate moisture levels.
Missing Plant Material Replacement: Replace all missing plants or materials according to the original design.
General Clean Up: At the end of the season, project locations require the removal of all plant material and returned to its pre-planted state. Top off all locations with growing medium or as approved and directed by CDOT.
Transplant: Some plant material may require transplanting and relocation within the City of Chicago.
Planter relocation: Roadway reconstruction or events may require relocation of planters.

E. General Requirements and Standards

1. Key Personnel and Program Staffing

a. Management Level Contact Person

The SR must specify a single individual who will be authorized to act and will act as the main point of contact during the life of the Agreement and will be responsible for Agreement administration including immediate and on-site resolution of any issues. This individual will be responsible for all communications with the city whether by phone, fax, email, or in person. The individual will be responsible for submitting cost estimates and work schedules reflecting the project's goals and milestones. The individual must be available by phone twenty four (24) hours when crews are providing services.

b. Landscape Architect

Landscape designs must be developed by a Landscape Architect who is Licensed and registered with the State of Illinois or APLD Certified Landscape Designer.

c. Crew Personnel

1. Work must be completed as expeditiously as possible. The SR is required to staff the work crews in order to ensure the operation is carried out effectively and efficiently. Crew personnel must be experienced and highly qualified with the necessary skills to successfully complete the services described Said skills must also include worker safety compliance with current OSHA Standards. Crew personnel must be either directly employed and/or supervised by the SR.

2. Crew Personnel must have the following certifications:

- Illinois Pesticide Applicators License
- Illinois Pesticide Operators License
- PLANET Certified Landscape Professional (CLP)
- PLANET Certified Landscape Technician (CLT)
- ISA Certified Arborist

3. Supervisory personnel must be present on the work site at all times while work is being performed. Such supervisory personnel must receive and promptly execute all requests from CDOT whether the SR or its subcontractor, if any, is performing work. The supervising personnel must be able to effectively communicate with City personnel and crew and have the ability to make decisions. Supervisory personnel must have horticultural experience, be able to identify plant material, and have the ability to read landscape plans.

3. All work performed by subcontractors must be directly supervised at all times by the SR. It is the SR's responsibility to see that the terms and conditions of the Agreement are adhered to.

4. All work must follow recognized and accepted standards and existing City of Chicago, CDOT policies. Trained and experienced individuals must provide all work.

5. The SR must employ only experienced laborers, mechanics, or artisans to perform the services set forth in the Scope of Services and whenever, in the opinion of CDOT, any employee is careless, incompetent, obstructs the progress of the work, acts contrary to instructions or conducts themselves improperly, the SR will, upon request of CDOT, remove the employee from the work and must not employ such employee again.

8. Crew Personnel must wear company uniforms consisting of coordinated pants, shirt, T-shirts, vest and/or hats. All attire must be consistent between employees, clearly identify the company, and worn appropriately. Shirts must be neatly tucked into pants, and fluorescent orange safety vests must be worn at all times on the job site. There will be no smoking on the job site. Employees must behave in a courteous manner to the general public and exhibit professional conduct at all times. Lunch and other breaks must be taken off site.

8. Crews must report to the job site with the appropriate materials and equipment to perform the work required.

9. The SR must submit crew configuration plans to CDOT for approval. These crews must only be assigned to work under the Agreement. Any change or substitution in crew personnel must have prior approval from the CDOT forty-eight (48) hours before the commencement of work. If additional crews are required in order to meet completion dates and schedules, the SR must add additional crews.

2. Communications

a. All Key personnel must provide CDOT with a mobile number and email address.

b. The SR must respond to all directives and/or inquires within 24 hours unless otherwise directed.

c. CDOT may schedule regular meeting(s) on an as needed basis, concerning the work, and SR's performance. The SR is required to attend and participate at these meetings at the scheduled time and locations.

d. The SR is required to attend seasonal meetings at CDOT before the start of each season to go over goals, objectives, season work plans, and expectations.

3. Schedules and Reporting

a. Seasonal Program Schedules

Seasonal program schedules should follow the dates set forth in Attachment 2 and must be submitted with the work plan in the planning phase. All changes in schedules must be resubmitted and approved by CDOT prior to any work.

b. Monthly Schedules

Monthly schedules are required and must be submitted prior to the first day of each month. Monthly schedules must consist of the proposed work scheduled to be accomplished that month, including but not limited to, installation, watering, fertilizing, maintenance, and removal. Monthly schedules should reflect the overall seasonal project schedule**.**

c. Schedule Approval

Schedule approval must be obtained prior to the start of work. Once approved, CDOT must receive notification of any changes to all schedules a minimum of 48 hrs prior to such changes. If required, CDOT may change either the seasonal program or monthly schedule.

d. Daily Work Reports

Daily work reports are required for all services provided and must be submitted within 24 hours of work completion. Daily work reports are to be completed by supervisory personnel and must consist of the actual work completed, listing hours, arrival and departure times to and from job sites, lunch breaks, locations, type of work completed, findings, and recommendations. If the SR fails to submit daily work reports within the 24 hours, it will be assumed that no work was performed and no payment will be made. Late or back dated reports will not be accepted. These reports will be emailed to CDOT.

e. The SR must document and submit reports in a manner and format approved by CDOT.

4. Compensation and Invoicing

a. The SR will be compensated for services satisfactorily performed according to the terms of the Scope of Services at the negotiated specified rates set forth in **Attachment 3.** Compensation will consist of the cost of labor, certain direct costs, material mark ups, and subcontractors. All costs will be included in the compensation schedule.

b. The SR will be compensated for actual services provided and not for cost estimates submitted. Cost estimates are required for budgeting, planning, and work order purposes.

c. Labor hours shall be charged on the basis of actual time spent at the City job site.

d. Following final inspection and approval, the SR shall submit monthly invoices and back up documents to the City as specified below:

- Invoices shall be in a manner approved by CDOT and shall reflect daily work reports, purchase/supplier receipts, and subcontractor invoices.

- A revised cost estimate reflecting actual hours, quantities, and costs; subcontractor invoices; and purchase/supplier receipts shall be included with all invoices.

- The SR or any subcontractor of the SR must furnish CDOT with such information as may be required relating to labor and materials, including all information necessary to determine the cost of work, such as the number of men/women employed, their pay, the distribution of labor in the work items, and any other information which CDOT may require.

e. The following is not compensatory: costs associated with contract management, the preparation of work plans, cost estimates, invoices, and schedules; costs associated with loading and unloading at the SR facilities; travel to the first City location and travel from the last City location; lunch breaks; training; and overtime.

f. The City reserves the right to deduct from compensation any costs related to SR -At-Fault Damages.

g. Allowability and allocability of costs will be determined in accordance with the terms and conditions set forth in the awarded agreement.

5. Program Locations

a. All locations are listed in **Attachment 1**. All locations are within the City of Chicago, on property owned and operated by the City of Chicago. This includes, but is not limited to parkways, medians and/or boulevards, and malls and plazas, in residential, commercial, business, and industrial areas, or as directed by CDOT.

b. The SR must be responsible and held liable for the actions of personnel under their direction. Work performed on property which is not under the jurisdiction of the City of Chicago is not authorized. SR's personnel observed working on the other jobs while engaged in the execution of these services may be removed from the job site or result in default proceedings.

c. All locations must be kept in such a manner to cause as little inconvenience as possible to the general public and property owners. The SR must carefully protect against damage to all existing utilities, trees, plants and other fixtures to remain including, but not limited to personal and real property, vehicles, structures and improvements. The SR is liable for any and all damage to such utilities, trees and other fixtures, real property and vehicles, and must replace, restore, or provide for their original condition, to the satisfaction of CDOT and the property owner.

d. The general access to a location must be along public roadways. Should work require the SR to place equipment and/or personnel on private property, the SR must obtain the property owner's permission in writing and must submit the same to the Commissioner or CDOT prior to the commencement of operations.

e. The SR must, during the progress of the work, remove and dispose of all materials and the resultant dirt and debris on a daily basis and keep the locations and adjacent premises in a clean condition satisfactory to the City. Upon completion of work, the SR must remove all materials, tools and machinery and restore the site to the same general condition that existed prior the commencement of its operation.

f. The work must be performed with every precaution to avoid damage to existing underground service lines, electrical lines, and utility structures, if such are encountered. The SR must be held responsible for and make good all damages to all utilities that may result directly or indirectly from its operations.

g. The SR must provide protection for all uncompleted work until the work has been completed and accepted by the City. The SR will be responsible for and must repair and pay for damages to new and existing structures, material, equipment, plant, stock and apparatus during the course of the work, where such damage is directly due to work, or where such damage is the result of the negligence, or carelessness on the part of the SR or of its employees, or on the part of the SR's subcontractor or its employees. However, the SR must first immediately notify CDOT and report the nature and extent of damages prior to making any such necessary repairs.

h. The SR must adhere to Chicago Department of Transportation (CDOT) regulations governing times for street closures and permits to operate in the public way in the Loop and the greater downtown area.

6. Material

a. The SR is responsible for the procurement of all materials needed to perform the services as set forth in the Scope of Services. Procurement of all plant material includes, but not limited to, the arrangement for and/or the management of contract-growing of quality plant material from reputable nurseries and greenhouses/growers. Nursery and greenhouse/grower sources must be located within three-hundred (300) mile radius of the City of Chicago, or as approved by CDOT.

b. Samples and resources of all materials, including but not limited to, plant material, soil, mulch, fertilizer, pesticide, insecticide, and hardware, must be submitted to CDOT for approval.

c. The SR must provide CDOT copies of greenhouse order confirmations and delivery tickets, verifying the order and delivery of the plant material provided for each season's floral display.

d. The SR is responsible for making multiple visits to all greenhouse/growers and reporting back to CDOT via photos and status report of the progress of the plant material.

e. CDOT will inspect and approve all plants at the nurseries and greenhouses/growers prior to installation. The SR must select only material which is best suited for the requirements of the City of Chicago. The City reserves the right to place identification seals on any or all plants selected. Approval of plant material on such examination must not be construed as final acceptance of it. Plants must meet the standards of "American Standards for Nursery Stock" ANSI Z60.1-2004 or latest revision thereof, American Association of Nurserymen, which by reference is made part of these specifications.

f. Final approval of all plants will be at the job site. Plants must be in a healthy, vigorous condition, and free of insects and disease. Plants must have full, even and well developed branching. Plants rejected because of damage during the storage, staging, loading, and shipment, will be rejected by the City and replaced by the SR at no charge to the City. This includes, but is not limited to, damage caused by wind, lack of water, pests, disease, and negligence.

g. All plant material must be distinguishable, requiring labels identifying the genus species and cultivar. Plants indistinguishable at the job site will be rejected by the City of Chicago and replaced by the SR at no charge to the City.

h. Plants must meet all requirements of federal, state, and local laws with respect to plant type, labeling, nursery or plant inspection, disease, insect, and other pest infestation, and any other requirements.

i. Field collected plants are not acceptable.

j. Particular attention and vigilance must be paid to the receiving of plant material from areas that are under any and all quarantines.

k. Fertilizer applications will be determined by CDOT based on floral display performance.

l. All chemicals must be used in strict accordance with federal, state, county and local laws and regulations. Any use of chemicals must be reported to the City and applied by trained and licensed pest control operators and applicators.

m. It is the intent of the City to maintain a healthy, sustainable landscape that will minimize the need for and use of chemical controls. An Integrated Pest Management Program (IPM) and biological controls will be utilized as much as possible for the sites.

n. Non toxic chemicals must be used when ever possible.

7. Storage Requirements

a. The storage and staging yard for all material must be located within the city limits of Chicago. The yard must be designed and constructed to accommodate the holding and or staging and loading of various materials throughout the calendar year. The yard must be secure. The yard must provide an enclosed area free from the outside environment to be used for storage of weather sensitive materials.

b. The storage yard must be sufficient of size to accommodate at one time, the quantity of all materials needed for a season.

c. Proper plant health care is essential while the plant material is held in the storage and staging yard. Plant material must be arranged in the storage yard to allow for adequate sunlight to reach all areas of the plant and for adequate ventilation and water penetration. All materials damaged, during the storage, staging and/or loading will be rejected by the City and replaced by the SR at no charge to the City of Chicago. This includes, but is not limited to, damage caused by wind, lack of water, and negligence.

d. All materials required to perform the services set forth in this Scope of Services must be stored separately from materials belonging to other City agencies and other organizations while in the storage and staging yard.

e. The storage area must meet all Environmental Protection Agency (**EPA**) and Occupational Safety and Health Administration (**OSHA**) requirements.

f. The storage area must be equipped with filtered and / or buffered watering systems. All systems must be approved by the City of Chicago prior to award.

g. The City will periodically inspect the facility(s) for acceptability of operation. The entire storage yard set up, operation, and maintenance is the sole responsibility of the SR at their expense.

8. Equipment Requirements

a. The SR will provide all equipment, vehicles, transportation, tools, personal safety equipment, and consumable supplies required to fulfill all of the duties specified in the Scope of Services.

b. All equipment and tools necessary must be in safe, working condition at all times. The SR is responsible for all maintenance of its equipment and tools and must pay for all service, parts and mechanic's time in the event one of their pieces of equipment breaks down during the course of its engagement. The City must not be liable for any costs associated with such equipment failure or subsequent maintenance. The SR must repair the equipment within a maximum of two (2) hours or send a replacement for the downed piece(s) of equipment. If the same piece of equipment becomes inoperative on more than three (3) occasions, that piece of equipment must no longer be eligible for work.

9. Safety Requirements

a. All CDOT Traffic Control and Protection procedures and policies must be adhered to at all times. It is the responsibility of the SR to develop maintenance of traffic plan that adheres to all City of Chicago policies.

b. Safety vests must be worn at all times on the job site

c. Any work performed by the SR within the work zone that presents a hazard to vehicular or pedestrian traffic must be subject to charges for TRAFFIC CONTROL DEFICIENCY.

d. The placement of barricades and warning signs for the required lane closures must be as specified herein and must proceed in the direction of the flow of traffic. The removal of all signs and barricades must begin at the end of the construction areas and proceed toward oncoming traffic.

e. Arrow Boards are required for any lane closure on an arterial street. A permit must be obtained and all safety requirements must be strictly adhered to. Failure to obtain all necessary lane closure permits and/or to use the proper safety equipment to close a lane of traffic will result in liquidated damages. A flashing arrow board meeting the requirements of Article 702.05 must be operating at all times when a lane is closed to traffic on a multi-lane highway. Arrow boards must be provided and located in a head-on position within each lane closure taper.

f. This work must consist of installing, maintaining, and removing necessary signs and barricades needed to direct pedestrian to usable sidewalks and walkways during the construction. Illinois Standard sign R11-1102 (Sign legend

g. “Sidewalk Closed (Arrow) Use Other Side” : Size 24” x 30”; black legend on a white reflected background) must be placed at pedestrian crossing locations informing pedestrians of closed sidewalk sections Barricades must be placed on all closed sidewalk sections.

10. Permits

a. The SR is responsible for obtaining all necessary permits and licenses required by law and pay all fees associated therewith, including but not limited to the following permit. The SR must provide CDOT with copies of the all permits, prior to the commencement of work.

11. Sustainable Practices

a. The City requires the SR to reuse, reduce, and recycle as much material as possible. The SR must submit a waste handling plan detailing how waste will be separated and managed.

b. Plant containers including plastic pots, cell packs, and trays, product packaging, and other waste products associated with the materials and products used in performing services must be recycled. Ask plant suppliers if they will accept plant containers for reuse or recycling or take recyclable material to a recycling facility.

c. All green waste including (landscape trimmings, grass clippings, seasonal floral material) must be separated from other waste and taken to a green waste composting facility or composted at the SR’s yard.

d. Whenever possible the SR must choose to use recycled material, including the use of recycled paper when submitting reports to the City.

e. The SR must water in a way that minimizes water run off. The SR must submit methods of water conservation plan to CDOT.

f. The SR must consider energy consumption in the choice of materials and equipment, such as fuel efficient or clean fuel vehicles. SR must implement routes that are the most efficient in reducing vehicle use and the SR must not leave trucks idling when unnecessary. Use of gas powered blower is prohibited unless otherwise specified by the City.

g. The SR is encouraged to reuse transplantable plant material when the City can not find an alternate location.

12. Final Inspection, Acceptance, Evaluation, and Status

a. Performance will be subject to the inspection, evaluation, and acceptance for accuracy and satisfaction of the City.

b. Dated photos of each location must be submitted to CDOT the following day of installation.

c. Submit periodic status reports, including dated photos to provide documentation of each location's condition.

d. If the SR fails to install according to design and/or mock up intent, the SR is required to readdress the area and reinstall according to design and/or mock up intent within 24 hours, at no additional cost to the City.

e. If the SR fails to install all materials needed at time of installation to make a complete floral display, the SR will readdress at no additional cost to the City.

f. Unacceptable materials, as determined by CDOT, will not be considered for payment. All unacceptable materials must be removed with 24 hours of notification. The City reserves the right to make arrangements as it may deem action by the City must be deducted from any monies due or which may become due to the SR.

13. Guarantee

a. The SR must guarantee all annuals for the duration of the seasonal display unless vandalized or stolen.

b. The SR must guarantee all perennials and shrubs for a period of one (1) year from the date of initial acceptance by the City.

c. All annuals, perennials, and shrubs (plant material) must be in a healthy and thriving condition representative of its species, as determined by CDOT, for the duration of the guarantee period. Plant Material not found to be healthy as stated above, due to, but not limited to: improper handling or planting; improper after care including trimming, watering, weeding, fertilizing, insect infestations or from shock or transplanting must be removed and replaced by the SR at no additional cost to the City of Chicago within 72 hours of the first notification. If identical plant material can not be located, the SR must provide the City with available substitutes. CDOT must then choose replacement material from this list. Prior to substitution approval, the SR must provide a list of ten (10) greenhouses/growers/nurseries, the SR pursued in locating the specified plant material.

III. PROPOSAL SUBMITTAL REQUIREMENTS

Proposals will be received by the Chief Procurement Officer in accordance with the provisions set out below. Failure to complete Proposals in accordance with these

Instructions and Requirements for Submission could result in rejection of the Proposal as non-responsive. Any false statements made by a Respondent may void the Proposal and eliminate the Respondent from further consideration. **Each Proposal must contain all of the following documents and must conform to the following outline and requirements.**

1. **Format.** Proposals must be prepared on standard 8 ½ x 11 letter size paper. Expensive paper and bindings are discouraged. The City encourages the use of materials containing recycled content. Sections should be separated by labeled tabs and organized in accordance with subject matter sequence as set forth below. Additionally, proposals must be provided digitally on a CD.

The detailed Proposal evaluated by the City must include a response to all requirements in this RFP. By submitting a response to this RFP, you are acknowledging that if your Proposal is accepted by the City, your Proposal and related submittals may become part of the contract.

Sections should be separated by labeled tabs and organized in accordance with subject matter sequence as set forth below. Each page of the Proposal must be numbered in a manner so as to be uniquely identified. Proposals must be clear, concise and well organized. Respondent is strongly discouraged from including advertisement or materials not related specifically to the focus of this RFP.

2. Required Contents of Proposal

Respondents are advised to adhere to the submittal requirements of the RFP. Failure to comply with the instructions of this RFP may be cause for rejection of the non-compliant Proposal. Respondent must provide information in the appropriate areas throughout the RFP. By submitting a response to this RFP, you are acknowledging that if your Proposal is accepted by the City, your Proposal and related submittals may become part of the contract. While the City recognizes that Respondents provide costs in varying formats, compliance with the enclosed Itemized Cost Proposal in Attachment 3 is required to facilitate equitable comparisons.

At a minimum, the Proposal must include the following items:

3**. Cover Letter.** A statement must be signed by an authorized representative of the firm committing to provide the services as described in this RFP in accordance with the terms and conditions of any Agreement awarded pursuant to the RFP process. The cover letter must:

- Identify the legal name of the company, its headquarters address, its principal place of business, its legal form (i.e. corporation, joint venture, limited partnership, etc.), and the names of its principals or partners.

- Outline the number of years the company has been in business, and provide an overview of the experience and background of the company, and its key personnel committed to this project.

- Indicate the name, telephone number(s), and email address of the principal contact for oral presentation and/or negotiation.

4. Executive Summary

Respondent must provide an executive summary which explains its understanding of the City's intent and objectives and how their Proposal would achieve those objectives. The summary must discuss Respondent's strategy and methodology for successfully implementing and managing the project for the City of Chicago; capacity to perform, and approach to project management, satisfying the scope of services in the RFP and any additional factors for the City's consideration.

5. **Key Personnel:** Identify key personnel committed to provide the Services as outlined in the Scope of Services within the RFP, state their role and areas of expertise and responsibility/activities. Identify subcontractors that will be performing on this project their role and areas of expertise and responsibility/activities. Include involvement by MBE/WBE firms. The following must be included:

- Resumes or corporate personnel profiles, indicating professional qualifications and specialized experience for all key personnel (including owner and/or president), <u>including</u> work related education, work history, length of employment with firm, current and past job titles with firm, description of their roles and responsibilities on recent projects of similar type, scope and magnitude relating to the Scope of Services, certificates, licenses, and other professional accreditations. Indicate whether the listed individuals are on staff, to be hired, or whether they are to be provided through Respondent's joint venture or subcontractor arrangements. Be sure to identify each of the following, as well as any other titles that will participate on the team and have service responsibilities;

- Key Personnel must include the following:
    - Landscape Architect who is Licensed and registered with the State of Illinois or APLD Certified Landscape Designer
    - PLANET Certified Landscape Professional (CLP)
    - PLANET Certified Landscape Technician (CLT)
    - Certified Illinois Pesticide Operators License
    - Certified Illinois Pesticide Applicators License

- Management Level Contact Person who will be responsible for Agreement administration including immediate and on-site resolution of any issues.

- Copies of all certifications, licenses, and professional accreditations

Any changes to the key personnel proposed here, before, or after award, must be approved in writing by CDOT.

6. **Work Plan for Providing Services.** To perform the work described in this RFP, the Respondent's Proposal should meet certain requirements. Proposals not meeting these requirements at the time of submission may be disqualified. Respondents must develop and provide a detailed work plan for implementing the services for winter, spring, summer, and fall as outlined in the RFP Scope of Services, including, but not limited to:

- The approach/methodology the respondent is proposing to complete the required services; describing design, installation, maintenance, watering, integrated pest management, and fertilization services, including not limited to production techniques, methods, the number and size of crews dedicated to providing these services, make up of crews, supervisory personnel, and contingency plan to respond to fluctuations in the demand for Services; a crew is considered to consist of three or more experienced landscape laborers

- Plan for supplying plant material and a list of all Greenhouses and Nurseries used to supply plant material;

- A breakdown of the project into specific tasks, with indications of which tasks are dependent upon the completion of others

- A proposed schedule that incorporates the project schedule dates as listed in Attachment 2; the schedule should indicate when each task will be started and when it will be completed and who will perform it; this information may be represented as an annotated bar chart.

- A complete list of all equipment and facilities needed and available for work under the Agreement, including serial numbers. Include all licensed and unlicensed gas powered equipment.

The Commissioner or the Chief Procurement Officer, or both, may cause the facilities of Respondent to be inspected before any recommendation of award. The capacity to perform the work may be assessed at this time.

7. **Respondent's Experience – Project Examples:** The Respondent should have substantial experience in design, supply, installation, and care of projects with similar size and scope as described in scope of services. This experience may be combined experience between or among firms if the Respondent is a joint venture. As evidence of such experience Respondent must submit the following:

- A minimum of three (3) references from clients to whom comparable services have been provided in the past 3 – 5 years.

- In order to ensure Respondent's qualifications, skill, and experience, Respondents must describe their previous experience on at least five(5) projects within the last three (3) years of similar type, scope and magnitude; identifying both private sector and public sector work. Respondents must provide a list of recent projects with similar size and scope as described in the Scope of Services where the **Respondent provided design, supply, installation, watering/fertilizing, pest management, and maintenance of** specialized four season floral displays such as hanging baskets, window boxes, and sidewalk planters/ large containers; green roofs; and landscape beds. Respondents must include adequate detail about each project referenced, including:

    - The project name and location;
    - Type(s) of project services relevant to the Scope of Services within this RFP;
    - Detailed description of project work performed by the firm;
    - Picture Portfolio of the project – Three to five pictures, prepared on 8 ½" X 11" letter-size paper (preferably recycled), printed, in color, and bound on the long side. Pictures do not have to be on photo paper. Additionally, pictures must be provided in digital format on the CD;
    - Copy of the Landscape design drawing and plant material list – Landscape design drawings must be prepared on 8 ½" X 14" legal-size paper (preferably recycled), folded to fit in the bound report. Additionally, designs must be provided digitally in PDF format on the CD;
    - Contact information for the project client, including client's name, client representative name, and contact phone number;
    - Total project cost;
    - The date when the project was performed and completed;
    - Identification of the role of the firm;
    - The key personnel and their roles;
    - Equipment used;
    - Length and type of services provided; and
    - The cost savings to the entity or agency, if any.

8**. Preliminary Cost Proposal.** The Respondent must complete Attachment 3 and submit it with their Proposal. All costs borne by the Respondent must be reflected in the Preliminary Cost Proposal. The City reserves the right to negotiate a final price, terms, and conditions with the SR.

9. **Commitment to meet MBE/WBE goals.** Provide a plan delineating the various anticipated categories and/or disciplines of work/services to be provided by MBE/WBE firms. Provide the names and qualifications for the prospective MBE/WBE firms that you plan to use to fulfill the minimum participation goals of 22% MBE and 5% WBE.

10. Business License/Authority to do Business in Illinois

Respondent must provide copies of appropriate licenses or certifications required of any individual or entity performing the Services described in this RFP in the City of Chicago, County of Cook and State of Illinois, for itself, its partners and its subcontractors, including evidence that Respondent is authorized by the Secretary of State to do business in the State of Illinois. Provide copies with the Proposal submission.

These requirements will vary depending upon the circumstances of each Respondent. See the Department of Business Affairs and Consumer Protection (BACP) website for additional information: www.cityofchicago.org/businessaffairs.

If required by law, Respondents are required to have an Illinois Business License. See the State of Illinois, Department of Business Services website for additional information: (http://www.cyberdriveillinois.com/).

Additionally, visit the State of Illinois' Division of Professional Regulation for information regarding the State of Illinois' Professional Certifications: http://www.idfpr.com/DPR/.

11. Economic Disclosure Statement and Affidavit ("EDS") and Appendix A

Respondent shall complete an Economic Disclosure Statement and Affidavit and Appendix A. See Online City of Chicago EDS Instructions, and Attachment A Online EDS Acknowledgement, in Attachment 5. If Respondent is a business entity other than a corporation, then each member, partner, etc., of Respondent must complete an EDS, as applicable, per the instructions on the EDS form. In addition, any entity that has an interest in Respondent or in one or more of its members, partners, etc., and is required pursuant to the Municipal Purchasing Act for Cities of 500,000 or More Population (65 ILCS 5/8-10-8.5) or Chapter 2-154 of the Municipal Code of Chicago to provide a disclosure must submit a completed and executed EDS as an "entity holding an interest in an Applicant" as described in the EDS. All affidavits must be notarized. Upon completion of Online EDS, Respondent shall submit a copy of 2 documents with their Proposal: 1) Certificate of Filing printed from system and Attachment A, Online EDS Acknowledgement form in lieu of hardcopy EDS forms.

The Respondent submitting as the prime must submit the above referenced EDS documents with its Proposal. Subcontractors may be asked, at the City's discretion, to provide an EDS during the evaluation process.

12. Legal Actions

Respondent must provide a listing and a brief description of all material legal actions, together with any fines and penalties, for the past 5 years in which (i) Respondent or any division, subsidiary or parent entity of Respondent, or (ii) any member, partner, etc., of Respondent if Respondent is a business entity other than a corporation, has been:

A. A debtor in bankruptcy; or
B. A plaintiff or defendant in a legal action for deficient performance under a contract or violation of a statute or related to service reliability; or
C. A respondent in an administrative action for deficient performance on a project or in violation of a statute or related to service reliability; or
D. A defendant in any criminal action; or
E. A named insured of an insurance policy for which the insured has paid a claim related to deficient performance under a contract or in violation of a statute or related to service reliability; or
F. A principal of a bond for which a surety has provided contract performance or compensation to an obligee of the bond due to deficient performance under a contract or in violation if a statute or related to service reliability; or
G. A defendant or respondent in a governmental inquiry or action regarding accuracy of preparation of financial statements or disclosure documents.

The City reserves the right to request similar legal action information from Respondent's team members during the evaluation process.

13. Insurance

Respondent should include a statement that they can comply with the City's insurance requirements. Prior to contract award, the selected Respondent will be required to submit evidence of insurance in the amounts specified in Attachment 4.

IV. EVALUATION CRITERIA

An Evaluation Committee ("**EC**") which will include representatives from the Chicago Department of Transportation, the Department of Fleet and Facility Management, and the Chicago Park District, will review and evaluate the Proposals, as described below.

As part of the evaluation process, the EC will review the information required by Section III, above, for each Proposal received. The EC may also review any other information

that is available to it, including but not limited to information gained by checking references and by investigating Respondent's financial condition.

The City reserves the right to seek clarification of any information that is submitted by any Respondent in any portion of its Proposal or to request additional information during the evaluation process. Any material misrepresentation made by a Respondent may void the Proposal and eliminate the Respondent from further consideration.

In addition, the EC will review Respondent's Proposal using the following criteria (not necessarily listed in order of importance):

The Evaluation Committee will review the submittals in accordance with the following criteria:

A. **Ability to Meet the Service Requirements as Evidenced by:**

1. Respondent's ability to meet the requirements described in the Scope of Services;
2. The originality and imaginative design of Respondent's Project Examples considering the use of variety, color, height, scent, composition, shape, texture, quality of plant and other materials, aspect, suitability for climate, environmental conditions, and context, all in the sole opinion of the Commissioner or his designee;
3. Demonstrated success of proposed approach/methodology in past or current similar projects and Respondent's reputation for high quality work, flexibility, consistency, reliability; and
4. The match-up between the Respondent's work plan and the available resources in key personnel, crews, equipment, and organizational structure to accomplish the goals and objectives of the project

B. **Overview of Respondent's Technical Competence as Evidenced by:**

1. The quality of Respondent's work plan, indicating a thorough and accurate understanding of the project scale, type, unique elements, and general approach to achieve the City's goals outlined in this RFP;
2. Respondent's available resources key personnel, crews, equipment, and organizational structure;
3. The quality and relevance of Respondent's professional qualifications and the technical experience and training of the Respondent and its proposed team members and key personnel; and
4. Respondent's past performance on similar type contracts, in terms of quality of services and compliance with specifications. The City may solicit from previous clients, including the City of Chicago, or any available sources, relevant information concerning Respondent's record of past performance.

C. **Overview of Respondent's Plan for Providing the Services** – The EC will consider the quality and adequacy of Respondent's work plan including the approach to implement and/or administer the Services described in the Scope of Services. The EC will consider Respondent's capabilities to implement and execute the full range of activities required for the Agreement as described in this RFP, and based on Respondent's responsiveness and professional competence based on previous client experiences.

D. **Cost:** The EC will consider Respondent's Preliminary Cost Proposal, Attachment 3. While cost is important, it will not be the primary factor in the selection process.

E. **Responsiveness:** The EC will consider the completeness and accuracy of Respondent's Proposal.

V. RESPONDENT SELECTION PROCESS

The Request for Proposal will be reviewed by an Evaluation Committee (EC) comprised of representatives from the Chicago Department of Transportation, the Department of Fleet and Facility Management, and the Chicago Park District. The Evaluation Committee will review the submissions in accordance with the evaluation criteria identified in Section IV.

The City may choose to conduct interviews, oral presentations and/or seek clarification from selected proposers. The City reserves the right to seek clarification of information submitted in response to this RFP and to request additional information during the evaluation process. The final Selection will be based on the Proposal which is most advantageous to the City. Such recommendation may be to enter into negotiations with only one Respondent or may be to enter into negotiations with more than one Respondent. Once determined, the Commissioner will seek the Chief Procurement Officer's concurrence.

Nothing in this RFP is intended to, nor will be deemed to operate, limit or otherwise constrain the authority, powers, and discretion of the Chief Procurement Officer as set forth in the Municipal Purchasing Act for Cities of 500,000 or More in Population, 65 ILCS 5/8-10-1 et.seq., as amended, and in the Municipal Code of the City of Chicago, as amended.

Cancellation. The City reserves the right to terminate this procurement at any stage if the Chief Procurement Officer determines it to be in the best interest of the City. In no event will the City be liable to Proposers for any cost or damages incurred by Proposers or other interested parties in connection with the procurement process, including but not limited to any and all costs of preparing the RFP and participation in any conferences, oral presentation or negotiations

Addenda

If it becomes necessary to revise or expand upon any part of this RFP, an addendum will be sent (electronically or by mail) to all of the prospective Respondents listed on the "Take Out Sheet" prior to the Proposal due date. A copy of addenda associated with this RFP specification number will also be posted on the City of Chicago's Department of Procurement Services website and may be downloaded in lieu of being sent the addendum. Prospective Respondents are listed on the Take Out Sheet when they pick-up a copy of the RFP package from the Bid & Bond Room and leave a business card, e-mail BidandBond@cityofchicago.org or call in to the Bid and Bond Room to register their company as having downloaded a copy of the RFP prior to the Proposal due date. Each addendum is incorporated as part of the RFP documents, and the prospective Respondent should acknowledge receipt.

Respondents are solely responsible for acquiring the necessary information or materials from the Bid and Bond room.

Copies of the take-out list, and any addenda, are available from the Department of Procurement Services Bid & Bond Room 301, City Hall, 121 North LaSalle Street, Monday-Friday, 8:30 a.m. - 4:30 p.m.; 312-744-9773; and via the Internet at the Department of Procurement website: www.cityofchicago.org/Procurement

An addendum may include, but will not be limited to, the following:

1. Responses to questions and requests for clarification sent to the Department of Procurement Services; or

2. Responses to questions and requests for clarification raised at the Pre-Proposal Conference; or

3. Responses to questions and requests for clarification which were sent in by the deadline for submission of questions; all in accordance with the provisions of Section V. 5.1 A herein.

City's Rights to Reject Proposals

The City of Chicago, acting through its Chief Procurement Officer, reserves the right to reject any and all Proposals that do not conform to the requirements set forth in this RFP; or that do not contain at least the information required by this RFP. If no Respondent is selected through this RFP process, then the Chief Procurement Officer may utilize any other procurement method available under the Municipal Purchasing Act and the Municipal Code of Chicago, to obtain the Services described in this RFP or as may otherwise be so required.

No Liability for Costs

The City is not responsible for costs or damages incurred by Respondents, member(s), partners, subcontractors, or other interested parties in connection with the RFP process, including but not limited to costs associated with preparing the Proposal and/or participating in any conferences, site visits, demonstrations, oral presentations or negotiations.

Prohibition on Certain Contributions.- Mayoral Executive Order No. 2011-4

No Contractor or any person or entity who directly or indirectly has an ownership or beneficial interest in Contractor of more than 7.5% ("Owners"), spouses and domestic partners of such Owners, Contractor's Subcontractors, any person or entity who directly or indirectly has an ownership or beneficial interest in any Subcontractor of more than

7.5% ("Sub-owners") and spouses and domestic partners of such Sub-owners (Contractor and all the other preceding classes of persons and entities are together, the "Identified Parties"), shall make a contribution of any amount to the Mayor of the City of Chicago (the "Mayor") or to his political fundraising committee during (i) the bid or other solicitation process for this Contract or Other Contract, including while this Contract or Other Contract is executory, (ii) the term of this Contract or any Other Contract between City and Contractor, and/or (iii) any period in which an extension of this Contract or Other Contract with the City is being sought or negotiated.

Contractor represents and warrants that since the date of public advertisement of the specification, request for qualifications, request for proposals or request for information (or any combination of those requests) or, if not competitively procured, from the date the City approached the Contractor or the date the Contractor approached the City, as applicable, regarding the formulation of this Contract, no Identified Parties have made a contribution of any amount to the Mayor or to his political fundraising committee.

Contractor shall not: (a) coerce, compel or intimidate its employees to make a contribution of any amount to the Mayor or to the Mayor's political fundraising committee; (b) reimburse its employees for a contribution of any amount made to the Mayor or to the Mayor's political fundraising committee; or (c) bundle or solicit others to bundle contributions to the Mayor or to his political fundraising committee.

The Identified Parties must not engage in any conduct whatsoever designed to intentionally violate this provision or Mayoral Executive Order No. 2011-4 or to entice, direct or solicit others to intentionally violate this provision or Mayoral Executive Order No. 2011-4.

Violation of, non-compliance with, misrepresentation with respect to, or breach of any covenant or warranty under this provision or violation of Mayoral Executive Order No. 2011-4 constitutes a breach and default under this Contract, and under any Other Contract for which no opportunity to cure will be granted. Such breach and default entitles the City to all remedies (including without limitation termination for default) under this Contract, under Other Contract, at law and in equity. This provision amends any Other Contract and supersedes any inconsistent provision contained therein.

If Contractor violates this provision or Mayoral Executive Order No. 2011-4 prior to award of the Contract resulting from this specification, the CPO may reject Contractor's bid.

For purposes of this provision:

"Other Contract" means any agreement entered into between the Contractor and the City that is (i) formed under the authority of MCC Ch. 2-92; (ii) for the purchase, sale or lease of real or personal property; or (iii) for materials, supplies, equipment or services which are approved and/or authorized by the City Council.

"Contribution" means a "political contribution" as defined in MCC Ch. 2-156, as amended.

"Political fundraising committee" means a "political fundraising committee" as defined in MCC Ch. 2-156, as amended.

False Statements

(a) 1-21-010 False Statements

Any person who knowingly makes a false statement of material fact to the city in violation of any statute, ordinance or regulation, or who knowingly falsifies any statement of material fact made in connection with an application, report, affidavit, oath, or attestation, including a statement of material fact made in connection with a bid, proposal, contract or economic disclosure statement or affidavit, is liable to the city for a civil penalty of not less than $500.00 and not more than $1,000.00, plus up to three times the amount of damages which the city sustains because of the person's violation of this section. A person who violates this section shall also be liable for the city's litigation and collection costs and attorney's fees.

The penalties imposed by this section shall be in addition to any other penalty provided for in the municipal code. (Added Coun. J. 12-15-04, p. 39915, § 1)

(b) 1-21-020 Aiding and Abetting.

Any person who aids, abets, incites, compels or coerces the doing of any act prohibited by this chapter shall be liable to the city for the same penalties for the violation. (Added Coun. J. 12-15-04, p. 39915, § 1)

(c) 1-21-030 Enforcement.

In addition to any other means authorized by law, the corporation counsel may enforce this chapter by instituting an action with the department of administrative hearings. (Added Coun. J. 12-15-04, p. 39915, § 1)

VI. SUBMITTAL DUE DATE AND TIME

Proposals must be received by the Chief Procurement Officer at the address shown in the RFP up to the date and time shown here. It is the Proposer's sole responsibility to see that the Proposal is received as stipulated. The Chief Procurement Officer may leave unopened any Proposal received after the date and time set for receipt of the Proposal. The time for the deadline of the Proposals will be determined solely by the clock located in the Bid & Bond Room. Any such unopened Proposals will be returned to the Proposer at the Proposer's expense. Proposers are responsible for the timely delivery of the submittal documents. Failure by a messenger delivery service or printing service to meet the deadline does not relieve the Proposer of the deadline for submittal of the Proposal. Proposal packages must be complete and contain the number of copies shown in the RFP document. The Chief Procurement Officer reserves the right to reject any Proposal which deviates from the Submittal Requirements. No additional or missing documents will be accepted after the due date and time except as may be requested by the Chief Procurement Officer.

One (1) ORIGINAL and TWO (2) copies of the response are to be submitted in a sealed envelope no later than 4:00 P.M., Chicago Time on **October18, 2013** to:

Jamie L. Rhee, Chief Procurement Officer
Department of Procurement Services
Bid & Bond Section
City Hall-Room 301
121 N. LaSalle Street
Chicago, Il 60602

The outside of each envelope or package must be labeled:

"RFP for Professional Floral Displays Program Citywide
Requisition No. 74209 ~ Specification No. 110828"

Due 4:00 p.m., October 18, 2013

(Name of Respondent
Package ___ of___
(Note: **1** of 3 must contain signatures and be marked **ORIGINAL**)

Pre-Proposal Conference

The City will hold a Pre-Proposal Conference in the Department of Procurement Services, Room 1103, City Hall, 121 N. LaSalle Street, Chicago, Illinois at 1:00 P.M. Central Time on September 23, 2013. All parties interested in bidding on

this RFP are urged to attend in person. The City will answer questions and clarify the terms of the RFP at the Pre-Proposal Conference. The City may respond both to questions raised on the day of the conference and to questions e-mailed until 4:00 P.M. September 27, 2013.

VII. TRANSPARENCY WEBSITE; TRADE SECRETS

Consistent with the City's practice of making available all information submitted in response to a public procurement, all Proposals, any information and documentation contained therein, any additional information or documentation submitted to the City as part of this solicitation, and any information or documentation presented to City as part of negotiation of a contract or other agreement may be made publicly available through the City's Internet website. However, Respondents may designate those portions of a Proposal which contain trade secrets or other proprietary data ("Data") which Respondent desires remain confidential.

To designate portions of a Proposal as confidential, Respondent must:

A. Mark the cover page as follows: "This RFP proposal includes trade secrets or other proprietary data."

B. Mark each sheet or Data to be restricted with the following legend: "Confidential: Use or disclosure of data contained on this sheet is subject to the restriction on the title page of this Proposal."

C. Provide a CD-ROM with a redacted copy of the entire bid or submission in .pdf format for posting on the City's website. Respondent is responsible for properly and adequately redacting any Data which Respondent desires remain confidential. If entire pages or sections are removed, they must be represented by a page indicating that the page or section has been redacted. Failure to provide a CD-ROM with a redacted copy may result in the posting of an un-redacted copy.

Indiscriminate labeling of material as "Confidential" may be grounds for deeming a Proposal as non-responsive.

All Proposals submitted to the City are subject to the Freedom of Information Act. The City will make the final determination as to whether information, even if marked "confidential," will be disclosed pursuant to a request under the Freedom of Information act or valid subpoena. Respondent agrees not to pursue any cause of action against the City with regard to disclosure of information.

Attachment 1
Program Locations

SITE	LOCATION	DESCRIPTION	TYPICAL SEASON(S)*	ESTIMATED QTY
City Hall Window Boxes	121 N. LaSalle	36"x12"x10.5" Window Boxes	Summer / Winter / Spring	70
City Hall Sidewalk Planters	121 N. LaSalle	310" x 56" concrete sidewalk planters	Summer / Winter / Spring	8
Clark and Roosevelt	NEX of Clark and Roosevelt	6' diameter concrete planter (5'2" interior)	Summer / Winter	1
Columbus Bridge at East Randolph	Columbus and East Randolph	36"x15"x12" window boxes	Summer / Winter	36
Cultural Center	78 E. Washington	30"x12"x10.5" Window Boxes	Summer / Winter / Spring	120
Gallery 37 Roof Top	64 E. Randolph	various 14" to 30" round / 25"square planters	Summer	39
Illinois Planters	Illinois and New Street	3 at 47"x47", 1 at 43"x66" (interior)	Summer / Winter	4
LaSalle Planters	LaSalle - Lake to Washington	2'10" x 2'10" concrete sidewalk planters	Summer / Winter / Spring	7
Marine Unit	500 E. Randolph	Various 25" square / 27"- 31" round / 21"-50" rectangle	Summer	130
Poly Hanging Baskets	Various locations	24" Poly Basket	Summer / Winter	894
Randolph Planters	Wabash to Jefferson	2'10" x 2'10" concrete sidewalk planters	Summer / Winter	40
Polk Planters	Plymouth to Federal	2'10" x 2'10" concrete sidewalk planters	Summer / Winter	3
Washington Ginkgo Planters	South side of Washington - LaSalle to Clark	44"x47"x36" interior	Summer / Winter	7
Washington Planters	Washington - Wacker to Michigan	34"x34" concrete sidewalk planters	Summer / Winter	34
Washington Wells Planters	NWX Washington and Wells	47"x47"36" interior, concrete sidewalk planters	Summer / Winter	4

SITE	LOCATION	DESCRIPTION	TYPICAL SEASON(S)*	ESTIMATED QTY
Washington Pear Planters	Washington - Wacker to Franklin	43"x66" interior, concrete sidewalk planters	Summer / Winter	4
Wire Hanging Baskets	Various locations	24" Wire Basket	Summer	380
Jefferson Planters	Jefferson - Lake to Fulton	43” x 43” interior dimension, sidewalk planters	Summer / Winter	4
Michigan Av Planters	Wacker to Roosevelt	60" interior dimension sidewalk planters	Summer / Winter	125
EL Boxes	Dearborn - Randolph to Madison	36"x15"x13.5" Window Boxes	Summer / Winter	4
LaSalle/Kinzie Garage Ramp	Above down ramp at LaSalle and Kinzie	36"x15"x13.5" Window Boxes	Summer / Winter	4
Riverwalk Boeing	River - Randolph to Washington	36"x15"x13.5" Window Boxes	Summer / Winter	9
Riverwalk State to Dearborn	Chicago River South - State to Dearborn	36"x15"x13.5" Window Boxes	Summer / Winter	27
Riverwalk Dearborn to Clark planters	Chicago River South - Dearborn to Clark	concrete built in planters	Summer / Winter	8
Riverwalk Dearborn to Clark	Chicago River South - Dearborn to Clark	36"x15"x13.5" Window Boxes	Summer / Winter	24
Riverwalk Lasalle to Wells	Chicago River South - Lasalle to Wells	36"x15"x13.5" Window Boxes	Summer / Winter	24
Riverwalk Wells to Franklin	Chicago River South - Wells to Franklin	36"x15"x13.5" Window Boxes	Summer / Winter	24
Riverwalk Erie Terrace	Plaza at Erie and Kingsbury	36"x15"x13.5" Window Boxes	Summer / Winter	7
Riverwalk IBM	Chicago River North - Wabash to State	36"x15"x13.5" Window Boxes	Summer / Winter	27
Riverwalk Michigan Plaza	Lower Wacker - Michigan to Wabash south side of River	36"x15"x13.5" Window Boxes	Summer / Winter	9
Riverwalk Sheraton Hotel	Chicago River North - New Street to Columbus Drive	36"x15"x13.5" Window Boxes	Summer / Winter	63
Riverwalk Staircase NE	Columbus and River NE staircase	36"x15"x13.5" Window Boxes	Summer / Winter	3

SITE	LOCATION	DESCRIPTION	TYPICAL SEASON(S)*	ESTIMATED QTY
Riverwalk Staircase SE	Michigan and River SE staircase	36"x15"x13.5" Window Boxes	Summer / Winter	6
Roosevelt Bridge	Roosevelt - Indiana to Columbus	36"x15"x13.5" Window Boxes	Summer / Winter	24
Roosevelt Bridge House	Roosevelt and Lumbar / North and South Bridges	36"x15"x13.5" Window Boxes	Summer / Winter	48
Upper Randolph Planters	Lake to 8th Street	3'6" diameter concrete sidewalk planters	Summer / Winter	52
Huron Superior Planters	Lasalle to Wells	3'6" diameter concrete sidewalk planters	Summer / Winter	12
Congress Av Planters	Michigan to Wells	3' x 6'2" sidewalk planters	Summer / Winter / Spring	61
Wacker N/S Planters	Lake to Harrison	34 sq ft concrete sidewalk planters	Summer / Winter	43
Congress Av Inground Planters	Michigan to Wells	Inground planters	N/A	19
Michigan Av Inground Planters	Wacker to Roosevelt	Inground planters	N/A	53
Wabash Av Inground Planters	Wacker to Roosevelt	Inground planters	N/A	74
Cultural Center Gertrude Bernstein Garden	78 E. Washington	Landscape Bed	N/A	N/A
Cultural Center Green Roof	78 E. Washington	Green Roof	N/A	N/A
Maxwell Street Green Roof	DesPlaines and Maxwell Street, Parking Lot	Green Roof	N/A	N/A
24th and Wentworth	2401 S. Wentworth	Landscape Bed	N/A	N/A
Chicago River Locks	Chicago River and Lake Michigan	Landscape Bed	N/A	N/A
Chicago Police Headquarters	3510 S. Michigan	Landscape Bed	N/A	N/A
Jefferson Pk Library	5363 W. Lawrence	19" x 19" x 24" square Pea gravel aggregate	Summer	2

SITE	LOCATION	DESCRIPTION	TYPICAL SEASON(S)*	ESTIMATED QTY
Library	1226 W. Ainslie Street	33" x 12" rectangular Black poly liner window boxes	Summer	18
Sulzer Library	4455 N. Lincoln	24" diam. 30" round Pea gravel aggregate	Summer	4
Brighton Park Library	4314 S. Archer	48" x 24" rectangular raised concrete planter	Summer	1
Clearing Library	6423 W. 63rd Place	19" x 19" x 24" square Pea gravel aggregate	Summer	2
Woodson Library	9525 S. Halsted	28" x 28" x 36" square Dura Art planters	Summer	2
Blackstone Library	4904 S. Lake Park Ave	48" diam. 18" soil depth 31" off ground, round concrete pedestal	Summer	2
Hall Library	4801 S. Michigan	L1 - 94" L2- 42" Center width - 36" / 18" Tall, trapezoid raised concrete planter	Summer	2
Hegewisch Library	3048 E. 130th Street	18" by 18" square	Summer	2
King Library	3436 S. King Drive	19" x 19" x 24" square Pea gravel aggregate	Summer	2
Lozano Library	1805 S. Loomis	28" x 28" x 36" square Dura Art planters	Summer	4
Manning Library	6 S. Hoyne	19" x 19" x 24" square Pea gravel aggregate	Summer	2
McKinley Park Library	1915 W. 35th Street	19" x 19" x 24" square Pea gravel aggregate	Summer	2

** These are typical seasons in which services are required At the discretion of CDOT, seasons may be added or removed.*

Attachment 2
Program Schedule

SERVICES	START*	FINISH*
Spring Concepts	na	15-Oct
Spring Designs, Work Plans, & Cost Estimates	na	15-Nov
Spring Installation	13-Apr	16-Apr
Spring Maintenance	13-Apr	8-Jun
Spring Removal/Clean up	20-May	31-May
Summer Concepts	NA	15-Oct
Summer Designs, Work Plans, &Cost Estimates	NA	15-Nov
Summer Installation	20-May	8-Jun
Summer Maintenance	20-May	15-Oct
Summer Removal/Clean up	10-Oct	20-Oct
Fall Concepts	na	1-Apr
Fall Designs, Work Plans, & Cost Estimates	na	1-May
Fall Installation	10-Oct	20-Oct
Fall Maintenance	10-Oct	15-Nov
Fall Removal/Clean up	1-Nov	15-Nov
Winter Concepts	na	1-Aug
Winter Designs, Work Plans, & Cost Estimates	na	1-Sep
Winter Display Installation	14-Nov	Wednesday before Thanksgiving
Winter Maintenance	14-Nov	14-Apr
Winter Display Removal/Clean up part 1	10-Feb	16-Feb
Winter Display Removal/Clean up part 2	1-Apr	14-Apr

***Start and finish dates are approximate and are provided as a guideline. Schedule will be approved by CDOT.**

Attachment 3
Preliminary Cost Proposal

All costs associated with providing the services within the Scope of Service should be included in the compensation schedule outlined below. Compensation will consist of the cost of labor, certain direct costs, material mark ups, and subcontractors.

1. **Labor Costs:** The hourly rates quoted shall be fully loaded including all direct and indirect costs as they pertain to all of the services described within the RFP Scope of Services. Such labor costs include wages, overhead, labor burden, and profit. The overhead should include all costs as they pertain to the services provided (exclusive of the costs included in direct costs, material mark ups, and subcontractor costs as defined below), including, but not be limited to, general administration, supervision, equipment, vehicles, tools, accessories, transportation, fuel, traffic control, and disposal.

SERVICE CATEGORY	**FULLY LOADED HOURLY LABOR RATE**						
	Year 1	**Year 2**	**Year 3**	**Year 4**	**Year 5**	**Option Year 1**	**Option Year 2**
Design Services	$	$	$	$	$	$	$
Installation Services	$	$	$	$	$	$	$
Maintenance Services	$	$	$	$	$	$	$

2. **Direct Costs:** Direct costs include the following and will be reimbursed on the basis of actual purchase/supplier receipts:

a. Plant Material: The cost of all plant material purchased for performance of the services.

b. Landscape Material: The cost of landscape material purchased for performance of the services including, but not limited to, soil, soil mixes, soilless mixes, mulch, wood bark, compost, moss, sand, fertilizer, pesticide, insecticides, rock, gravel.

c. Hardscape Material: The cost of hardscape material purchased for performance of the services including, but not limited to, hanging basket hardware, planter hardware, and holiday ornaments and lighting.

d. Delivery Fees: The costs of supplier delivery fees for plant, landscape and hardscape materials purchased for performance of the services and delivered by supplier to SR.

3. **Material Mark Up:** Material Mark Ups quoted will be applied to the above Plant Material, Landscape Material, and Hardscape Material, and compensated as direct cost multiplied by mark-up quoted. A Material Mark UP will not be applied to Delivery Fees.

DIRECT COST CATEGORY	**MATERIAL MARK UP**	
Plant Material	%	
Landscape Material	%	*Not exceed to 10%*
Hardscape Material	%	*Not to exceed 10%*

Provide a detailed explanation of all costs included in the Plant Material Mark Up:

4. **Subcontractors:** The City will reimburse the SR for the costs of subcontractors as those costs are incurred under or in connection with Subcontracts awarded by the SR in accordance with the terms and conditions of the awarded Agreement, subject to the City's prior written approval. In no event is the SR entitled to any mark-up of Subcontractor costs. Subcontractor compensation will be determined at the agreement negotiation.

5. The following is not compensatory: costs associated with contract management, the preparation of work plans, cost estimates, invoices, and schedules; costs associated with loading and unloading at the SR facilities; travel to the first City location and travel from the last City location; lunch breaks; training; and overtime.

Attachment 4

CONTRACT INSURANCE REQUIREMENTS
Department of Transportation
Professional Floral Displays Program
CDOT Project No. B-2-701

The Contractor must provide and maintain at Contractor's own expense, until Contract completion and during the time period following completion if Contractor is required to return and perform any additional work, the insurance coverages and requirements specified below, insuring all operations related to the Contract.

A. INSURANCE TO BE PROVIDED

1) Workers Compensation and Employers Liability

Workers Compensation Insurance, as prescribed by applicable law covering all employees who are to provide work under this Contract and Employers Liability coverage with limits of not less than $500,000 each accident, illness or disease.

2) Commercial General Liability (Primary and Umbrella)

Commercial General Liability Insurance or equivalent with limits of not less than $2,000,000 per occurrence for bodily injury, personal injury, and property damage liability. Coverages must include the following: All premises and operations, products/completed operations, explosion, collapse, underground, separation of insureds, defense, and contractual liability (not to include Endorsement CG 21 39 or equivalent). The City of Chicago is to be named as an additional insured on a primary, non-contributory basis for any liability arising directly or indirectly from the work.

Subcontractors performing work for the Contractor must maintain limits of not less than $1,000,000 with the same terms herein.

3) Automobile Liability (Primary and Umbrella)

When any motor vehicles (owned, non-owned and hired) are used in connection with work to be performed, the Contractor must provide Automobile Liability Insurance with limits of not less than $1,000,000 per occurrence for bodily injury and property damage. The City of Chicago is to be named as an additional insured on a primary, non-contributory basis. Coverage

4) Professional Liability

When any architects, engineers, landscape design professionals and any other professional consultants perform work in connection with this Contract, Professional Liability Insurance covering acts, errors, or omissions must be maintained with limits of not less than $1,000,000. When policies are renewed or replaced, the policy retroactive date must coincide with, or precede, start of work on the Contract. A claims-made policy which is not renewed or replaced must have an extended reporting period of two (2) years.

5) Property

Contractor is responsible for all loss or damage to personal property (including but not limited to planter/floral displays any material, equipment, tools and supplies) owned, rented or used by Contractor.

The Contractor is responsible for all loss or damage to City property at full replacement cost that result from this Contract.

B. ADDITIONAL REQUIREMENTS

The Contractor must furnish the City of Chicago, Department of Procurement Services, City Hall, Room 403, 121 North LaSalle Street 60602, original Certificates of Insurance, or such similar evidence, to be in force on the date of this Contract, and Renewal Certificates of Insurance, or such similar evidence, if the coverages have an expiration or renewal date occurring during the term of this Contract. The Contractor must submit evidence of insurance on the City of Chicago Insurance Certificate Form (copy attached) or equivalent prior to Contract award. The receipt of any certificate does not constitute agreement by the City that the insurance requirements in the Contract have been fully met or that the insurance policies indicated on the certificate are in compliance with all Contract requirements. The failure of the City to obtain certificates or other insurance evidence from Contractor is not a waiver by the City of any requirements for the Contractor to obtain and maintain the specified coverages. The Contractor must advise all insurers of the Contract provisions regarding insurance. Non-conforming insurance does not relieve Contractor of the obligation to provide insurance as specified herein. Nonfulfillment of the insurance conditions may constitute a violation of the Contract, and the City retains the right to stop work until proper evidence of insurance is provided, or the Contract may be terminated.

The Contractor must provide for 60 days prior written notice to be given to the City in the event coverage is substantially changed, canceled, or non-renewed.

Any deductibles or self insured retentions on referenced insurance coverages must be borne by Contractor.

The Contractor hereby waives and agrees to require their insurers to waive their rights of subrogation against the City of Chicago, its employees, elected officials, agents, or representatives.

The coverages and limits furnished by Contractor in no way limit the Contractor's liabilities and responsibilities specified within the Contract or by law.

Any insurance or self insurance programs maintained by the City of Chicago do not contribute with insurance provided by the Contractor under the Contract.

The required insurance to be carried is not limited by any limitations expressed in the indemnification language in this Contract or any limitation placed on the indemnity in this Contract given as a matter of law.

If Contractor is a joint venture or limited liability company, the insurance policies must name the joint venture or limited liability company as a named insured.

The Contractor must require all subcontractors to provide the insurance required herein**,** or Contractor may provide the coverages for subcontractors. All subcontractors are subject to the same insurance requirements of Contractor unless otherwise specified in this Contract.

If Contractor or subcontractor desires additional coverages, the party desiring the additional coverages is responsible for the acquisition and cost.

Notwithstanding any provision in the Contract to the contrary**,** the City of Chicago Risk Management Department maintains the right to modify, delete, alter or change these requirements.

ATTACHEMENT 5

ONLINE CITY OF CHICAGO ECONOMIC DISCLOSURE STATEMENT AND AFFIDAVIT (EDS) INSTRUCTIONS

WHEN SUBMITTING YOUR RESPONSE TO THIS REQUEST FOR PROPOSAL (RFP), FOR _____, SPECIFICATION NO. _____, THE RESPONDENT(S) SHALL SUBMIT 2 DOCUMENTS: 1) A "**CERTIFICATE OF FILING**" EVIDENCING COMPLETION OF YOUR ONLINE EDS AND 2) AN EXECUTED **ATTACHMENT A, ONLINE EDS ACKNOWLEDGEMENT** SIGNED BY AN AUTHORIZED OFFICER BEFORE A NOTARY.

1. ONLINE EDS FILING

1.1. ONLINE EDS FILING REQUIRED PRIOR TO RESPONSE DUE DATE

The Respondent shall complete an online EDS prior to the response due date. A Respondent who does not file an electronic EDS prior to the response due date may be found non-responsive and its response rejected. If you are unable to complete the online EDS and print a Certificate of Filing prior to the response due date, the City will accept a paper EDS provided written justification is provided explaining your good faith efforts to complete it before the response due date and the reasons why it could not be completed.

NOTE: ALWAYS SELECT THE "CONTRACT" (NOT UPDATE) BOX WHEN COMPLETING AN ONLINE EDS TO ENSURE A NEW CONTRACT SPECIFIC ONLINE EDS IS CREATED RELATED TO THE SOLICITATION DOCUMENT. CLICKING THE UPDATE BOX ONLY UPDATES PREVIOUS EDS INFORMATION.

1.2. ONLINE EDS WEB LINK

The web link for the Online EDS is https://webapps.cityofchicago.org/EDSWeb

1.3. ONLINE EDS NUMBER

Upon completion of the online EDS submission process, the Respondent will be provided an EDS number. Respondent should record this number here:

EDS Number: _____

1.4. Online EDS Certification of Filing and attachment a, online eds acknowledgement

Upon completion of the online submission process, the Respondent will be able to print a hard copy Certificate of Filing. The Respondent should submit the signed Certificate of Filing and Attachment A, Online EDS Acknowledgement form with its response. Please insert your Certification of Filing and Attachment A, Online EDS Acknowledgement form following the Cover Letter. See Section ____, Required Contents of Proposal in the RFP. A Respondent who does not include a signed Certificate

of Filing and/or Attachment A, Online EDS Acknowledgement form with its response must provide it upon the request of the Chief Procurement Officer.

1.5. Preparation Checklist For Registration

To expedite and ease your registration process, we recommend that you collect the following information prior to registering for an Online EDS user account:

	1. Invitation number, if you were provided an invitation number.
	2. EDS document from previous years, if available.
	3. Email address to correspond with the Online EDS system.
	4. Company Information:
	a. Legal Name
	b. FEIN/SSN
	c. City of Chicago Vendor Number, if available.
	d. Address and phone number information that you would like to appear on your EDS documents.
	e. EDS Captain. Check for an EDS Captain in your company - this maybe the person that usually submits EDS for your company, or the first person that registers for your company.

1.6. Preparation Checklist For EDS Submission

To expedite and ease your EDS submission, we recommend that you collect the following information prior to updating your EDS information online.
Items #1 through #7 are needed for both EDS information updates and contract related EDS documents:

_____ 1. Invitation number, if you were provided with an invitation number.
_____ 2. Site address that is specific to this EDS.
_____ 3. Contact that is responsible for this EDS.
_____ 4. EDS document from previous years, if available.
_____ 5. Ownership structure, and if applicable, owners' company information:
_____ a. % of ownership
_____ b. Legal Name
_____ c. FEIN/SSN
_____ d. City of Chicago Vendor Number, if available.
_____ e. Address
_____ 6. List of Commissioners, officers, titleholders, etc. (if applicable).
_____ 7. For partnerships/LLC/LLP/Joint ventures, etc.:
_____ a. List of controlling parties (if applicable).

Items #8 and #9 are needed ONLY for contract related EDS documents:

_____ 8. Contract related information (if applicable):
_____ a. City of Chicago contract package

_____ b. Cover page of City of Chicago bid/solicitation package
_____ c. If EDS is related to a mod, then cover page of your current contract with the City.
_____ 9. List of subcontractors and retained parties:
_____ a. Name
_____ b. Address
_____ c. Fees – Estimated or paid

1.7. EDS Frequently Asked Questions

Q: Where do I file?

A: The web link for the Online EDS is https://webapps.cityofchicago.org/EDSWeb

Q: How do I get help?

A: If there is a question mark on a page or next to a field, click on the question mark for help filling out the page or field. You may also consult the User Manual and the Training Videos available on the left menu.

Q: Why do I have to submit an EDS?

A: The Economic Disclosure Statement (EDS) is required of applicants making an application to the City for action requiring City Council, City department or other City agency approval. For example, all bidders seeking a City contract are required to submit an EDS. Through the EDS, applicants make disclosures required by State law and City ordinances and certify compliance with various laws and ordinances. An EDS is also required of certain parties related to the applicant, such as owners and controlling parties.

Q: Who is the Applicant?

A: "Applicant" means any entity or person making an application to the City for action requiring City Council or other City agency approval. The applicant does not include owners and parent companies.

Q: Who is the Disclosing Party?

A: "Disclosing Party" means any entity or person submitting an EDS. This includes owners and parent companies.

Q: What is an entity or legal entity?

A: "Entity' or 'Legal Entity" means a legal entity (for example, a corporation, partnership, joint venture, limited liability company or trust).

Q: What is a person for purposes of the EDS?

A: "Person" means a human being.

Q: Who must submit an EDS?

A. An EDS must be submitted in any of the following three circumstances:

Applicants:	An Applicant must always file this EDS. If the Applicant is a legal entity, state the full name of that legal entity. If the Applicant is a person acting on his/her own behalf, state his/her name.
Entities holding an interest:	Whenever a legal entity has a beneficial interest (E. G. direct or indirect ownership) of more than 7.5% in the Applicant, each such legal entity must file an EDS on its own behalf.
Controlling entities:	Whenever a Disclosing Party is a general partnership, limited partnership, limited liability company, limited liability partnership or joint venture that has a general

	partner, managing member, manager or other entity that can control the day-to-day management of the Disclosing Party, that entity must also file an EDS on its own behalf. Each entity with a beneficial interest of more than 7.5% in the controlling entity must also file an EDS on its own behalf.

Q: What information is needed to submit an EDS?

A: The information contained in the Preparation Checklist for EDS submission.

Q: I don't have a user ID & password. Can I still submit an Online EDS?

A: No. You must register and create a user ID and password before submitting an Online EDS.

Q: What information is needed to request a user ID & password for Online EDS?

A: The information contained in the Preparation Checklist for Registration is needed to request a login for the Online EDS.

Q: I already have a username and password from another City web site (City Web Portal, Department of Construction and Permits, Department of Consumer Services, etc.). Can I log-in the Online EDS with that account?

A: Usually not. The Online EDS uses a user ID and password system that is shared by the Public Vehicle Advertising and Water Payment web sites. You may use a username and password from those sites by answering "Yes" to "Is this an existing City of Chicago user ID?" when registering. Other usernames and passwords will not be automatically recognized. However, you may choose to create an identical username for the Online EDS if it is not already taken.

Q: I don't have an email address. How do I submit an Online EDS?

A: You cannot get an account to submit an online EDS without an email address. If you need an e-mail address, we suggest that you use a free internet email provider such as www.hotmail.com or www.yahoo.com or rnail.google.com to open an account. The City does not endorse any particular free internet email provider. Public computers are available at all Chicago Public Library branches.

Q: I forgot my user ID. Can I register again?

A: No. If you are the EDS Captain of your organization, please contact the Department of Procurement Services at 312-744-4900. If you are an EDS team member, contact your EDS Captain, who can look up your user ID.

Q: Who is the EDS Captain?

A: The EDS Captain is a person who performs certain administrative functions for an organization which files an EDS. Each organization registered with the Online EDS has at least one EDS Captain. There may be co-captains, who are all equal. EDS Captains approve new users, change contact information for an organization, and de-active accounts of employees who have left the organization. Please see the User Manual for more information.

Q: Why do we need EDS Captains?

A: The Online EDS is designed to be a self-service web application which allows those doing or seeking to do business with the City to perform as many routine functions as possible without City intervention. Because many organizations have multiple staff filing an EDS, the EDS Captain role allows those organizations to self-manage the contact information and users.

Q: Who is the EDS team?
A: The EDS team for an organization is everyone who is registered to file an EDS on behalf of the organization.
Q: I forgot my password. What should I do?
A: To retrieve a temporary password, click the "Forgot your password?" link on the login page. Enter your user ID that you provided when you registered your account. The system will automatically generate a temporary password and send it to you. When you log-in with your temporary password, you will be asked to create a new password.
Q: How do I complete an Online EDS?
A: Click on "Create New" after logging in. The Online EDS system will walk you through the EDS questions. Please see the User Manual for details.
Q: How do I fill out a Disclosure of Retained Parties?
A: There is no longer a separate Disclosure of Retained Parties filing. After logging in, click on "Create New". Answer (click) "Contract" to "Is this EDS for a contract or an EDS information update?" Click "Fill out EDS", and click on the "Retained Parties" tab. When finished, click on "Ready to Submit."
Q: How do I attach documents?
A: Attachments are discouraged. If at all possible, please provide a concise explanation in the space provided in the online form. Attachments with pages of officers are not acceptable. Names of officers must be typed into the system. If you must provide an attachment for another reason, please send it to your City of Chicago contact (contract administrator or negotiator for procurements) and they will attach it for you. Documents can be sent in PDF (preferred), Word, or paper format.
Q: Who can complete an Economic Disclosure Statement online?
A: Any authorized representative of your business with a user ID and password can complete your EDS online. One person, such as an assistant, can fill in the information and save it, and another person can review and electronically sign the Online EDS.
Q: What are the benefits of filing my Economic Disclosure statement electronically?
A: Filing electronically reduces the chance of filing an incomplete EDS and speeds up the processing of contract awards. A certificate of filing can be printed at the completion of the process and inserted into your bid package. The biggest benefit for those who frequently do business with the City is that after the first EDS, each EDS is much easier to fill out because non-contract specific information is pre-filled from the last submitted EDS.
Q: Will my information be secure?
A: Yes. When making your internet connection to our Web Server, you will connect through a Secure Socket Layer (SSL for short) to the "Online EDS" login page. All information you type will be protected using strong encryption. Within the login page, you will provide us with a user ID, password, and secret question for user authentication, Only you will have knowledge of this unique identification information.
Q: I am filing electronically. How do I sign my EDS?
A: Once you have completed the EDS, you will be prompted to enter your password and answer to your secret question. Together, these will serve as your electronic signature. Although you will also print and physically sign an EDS certification of filing

as a notice that your EDS was filed, your EDS is complete as a legal document with only the electronic filing.

Q: My address has changed. How can I update my information?

A: You must be an EDS Captain for your organization to update this. Log-in and click on "Vendor Admin, Site Administration." Select the appropriate site and click edit.

Q: I have more questions. How can I contact the Department of Procurement Services?

A: Please contact the contract administrator or negotiator assigned to your solicitation or contract. You may call DPS at 312-744-4900 between 8:30 AM and 5:00 PM Central Time.

Q: Can I save a partially complete EDS?

A: Yes. Click "Save". To avoid data loss, we recommend you save your work periodically while filling out your EDS.

Q: Do I have to re-type my information each time I submit an EDS?

A: No. The system will remember non-contract specific information from your last submitted EDS for one year. This information will be filled-in for you in your new EDS. You will have an opportunity to correct it if it has changed since your last filing. When you submit your new EDS, the information is saved and the one-year clock begins running anew.

Q: What are the system requirements to use the Online EDS?

A: The following are minimum requirements to use the Online EDS:

- A PDF viewer such as Adobe Reader is installed and your web browser is configured to display PDFs automatically. You may download and install Adobe Reader free at www.adobe.comlproducts/reader/
- Your web browser is set to permit running of JavaScript.
- Your web browser allows cookies to be set for this site. Please note that while we use cookies in the Online EDS, we do not use them to track personally identifiable information, so your privacy is maintained.
- Your monitor resolution is set to a minimum of 1024 x 768.
- While not required to submit an EDS, if you wish to view the training videos, you must have Adobe Flash Plugin version 9 or higher, speakers, and sound. Please note that very old computers may not be able to run Adobe Flash and will not be able to play the training videos. In that case, we encourage you to seek help using the Online EDS Manuals. You may download and install Adobe Flash Plugin free at htty://get.adobe.comiflashplayer

The Online EDS has been tested on Internet Explorer 6.0 and 7.0 and Firefox 2.0 and 3.0 on Windows XIP and Mac OS X. Although it should work on other browsers and operating systems, the City of Chicago cannot guarantee compatibility.

ATTACHMENT A
ONLINE EDS ACKNOWLEDGEMENT

The undersigned, hereby acknowledges having received Specification No. _____ containing a full set of RFP Documents, including, Addenda Numbers (none unless indicated here) _____, and affirms that the Respondent shall be bound by all the terms and conditions contained in the RFP Documents, regardless of whether a complete set thereof is attached to this response.

Under penalty of perjury, the undersigned: (1) warrants that he/she was authorized to submit an EDS on behalf of the Disclosing Party on-line, (2) warrants that all certifications and statements contained in the EDS are true, accurate and complete as of the date the EDS was submitted on-line, and (3) further warrants that, as of the date of submission of this response, there have been no changes in circumstances since the date that the EDS was submitted that would render any certification in the EDS false, inaccurate or incomplete.

Further, the undersigned being duly sworn deposes and says on oath that no disclosures of ownership interests have been withheld and the information provided therein to the best of its knowledge is current and the undersigned has not entered into any agreement with any other respondent or prospective respondent or with any other person, firm or corporation relating to the price named in this proposal or any other proposal, nor any agreement or arrangement under which any act or omission in restraining of free competition among respondents and has not disclosed to any person, firm or corporation the terms of this proposal or the price named herein.

COMPANY NAME: _____
(Print or Type)

AUTHORIZED OFFICER SIGNATURE:
_____

TITLE OF SIGNATORY: _____
(Print or Type)

BUSINESS ADDRESS: _____
(Print or Type)

State of _____ (Affix Corporate Seal)
County of _____
This instrument was acknowledged before me on this _____ day of _____, 20___
by _____ as President (or other authorized officer) and
_____ as Secretary of _____ (Company Name)
Notary Public Signature: _____ (Seal)

Attachment 6: City of Chicago Sample Professional Services Agreement

Contract (PO) No. _____
Specification No. _____
Vendor No. _____

PROFESSIONAL SERVICES AGREEMENT

BETWEEN

THE CITY OF CHICAGO
DEPARTMENT OF _____

AND

CONSULTANT COMPANY NAME

CONTRACT DESCRIPTION

RAHM EMANUEL
MAYOR

PROFESSIONAL SERVICES AGREEMENT

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AGREEMENT

This Agreement is entered into as of the _____ day of _____, _____ ("**Effective Date**") by and between _____, an Illinois corporation ("**Contractor**"), and the City of Chicago, a municipal corporation and home rule unit of local government existing under the Constitution of the State of Illinois, acting through its Department of _____("**City**"), at Chicago, Illinois. The City and Contractor agree as follows:

BACKGROUND INFORMATION

The City requires _____ Services. The City advertised and issued a Request for Proposals ("RFP") to select a qualified firm to perform the Services.

The City evaluated the Contractor's response to the RFP and found the Contractor to be capable of performing the Services. The Contractor represents and warrants that it is qualified and competent to perform the Services and has the necessary expertise and knowledge to complete any Services assigned to it in accordance with this Agreement.

The Contractor warrants that it is ready, willing and able to perform as of the effective date of this Agreement to the full satisfaction of the City.

The Contractor warrants that it is ready, willing and able to perform as of the effective date of this Agreement to the full satisfaction of the City.

NOW, THEREFORE, the City and the Contractor agree as follows:

ARTICLE 1. INCORPORATION OF BACKGROUND INFORMATION

The Background Information set forth above is incorporated and made a part of this Agreement by reference.

TERMS AND CONDITIONS

ARTICLE 2. DEFINITION

2.1 Definitions

The following words and phrases have the following meanings for purposes of this Agreement:

"**Additional Services**" means those services which are within the general scope of Services of this Agreement, but beyond the description of services required under Section 3.1, and all services reasonably necessary to complete the Additional Services to the standards of performance required by this Agreement. Any Additional Services requested by the Department require the approval of the City in a written amendment under Section 10.3 of this Agreement before Contractor is obligated to perform those Additional Services and before the City becomes obligated to pay for those Additional Services.

"**Agreement**" means this Professional Services Agreement, including all exhibits attached to it and incorporated in it by reference, and all amendments, modifications or revisions made in accordance with its terms.

"**Chief Procurement Officer**" means the Chief Procurement Officer of the City and any representative duly authorized in writing to act on his behalf.

"**Commissioner**" means the Commissioner of the Department of _____, and any representative authorized in writing to act on the Commissioner's behalf.

"**Department**" means the City Department of _____.

"**Services**" means, collectively, the services, duties and responsibilities described in Article 3 and Exhibit 1 of this Agreement and any and all work necessary to complete them or carry them out fully and to the standard of performance required in this Agreement.

"**Subcontractor**" means any person or entity with whom Contractor contracts to provide any part of the Services, including subcontractors and subContractors of any tier, suppliers and materials providers, whether or not in privity with Contractor.

2.2 Interpretation

(a) The term "**include**" (in all its forms) means "include, without limitation" unless the context clearly states otherwise.

(b) All references in this Agreement to Articles, Sections or Exhibits, unless otherwise expressed or indicated are to the Articles, Sections or Exhibits of this Agreement.

(c) Words importing persons include firms, associations, partnerships, trusts, corporations and other legal entities, including public bodies, as well as natural persons.

(d) Any headings preceding the text of the Articles and Sections of this Agreement, and any table of contents or marginal notes appended to it, are solely for convenience or reference and do not constitute a part of this Agreement, nor do they affect the meaning, construction or effect of this Agreement.

(e) Words importing the singular include the plural and vice versa. Words of the masculine gender include the correlative words of the feminine and neuter genders.

(f) All references to a number of days mean calendar days, unless indicated otherwise.

2.3 Incorporation of Exhibits

The following attached Exhibits are made a part of this Agreement:

Exhibit 1	Scope of Services and Time Limits for Performance
Exhibit 2	Schedule of Compensation
Exhibit 3	Special Conditions Regarding MBE/WBE Commitment and Schedules
Exhibit 4	Online Economic Disclosure Statement and Affidavit Certificate of Filing
Exhibit 5	Insurance Requirements and Evidence of Insurance
Exhibit 6	Contractual Requirements Related to HIPAA
Exhibit 7	List of Key Personnel
Exhibit 8	City of Chicago Multi- Project Labor Agreement
Exhibit 9	City of Chicago Travel Guidelines
Exhibit 10	Compliance with Federal Grant Regulations

ARTICLE 3. DUTIES AND RESPONSIBILITIES OF CONTRACTOR

3.1 Scope of Services

This description of Services is intended to be general in nature and is neither a complete description of Contractor's Services nor a limitation on the Services that Contractor is to provide under this Agreement. Contractor must provide the Services in accordance with the standards of performance set forth in Section 3.3. The Services that Contractor must provide are described in Exhibit 1, Scope of Services and Time Limits for Performance.

3.2 Deliverables

In carrying out its Services, Contractor must prepare or provide to the City various Deliverables. "**Deliverables**" include work product, such as written reviews, recommendations, reports and analyses, produced by Contractor for the City.

The City may reject Deliverables that do not include relevant information or data, or do not include all documents or other materials specified in this Agreement or reasonably necessary for the purpose for which the City made this Agreement or for which the City intends to use the Deliverables. If the City determines that Contractor has failed to comply with the foregoing standards, it has 30 days from the discovery to notify Contractor of its failure. If Contractor does not correct the failure, if it is possible to do so, within 30 days after receipt of notice from the City specifying the failure, then the City, by written notice, may treat the failure as a default of this Agreement under Section 9.1.

Partial or incomplete Deliverables may be accepted for review only when required for a specific and well-defined purpose for the benefit of the City and when consented to in advance by the City. Such Deliverables will not be considered as satisfying the requirements of this Agreement and partial or incomplete Deliverables in no way relieve Contractor of its obligations under this Agreement.

3.3 Standard of Performance

Contractor must perform all Services required of it under this Agreement with that degree of skill, care and diligence normally shown by a Contractor performing services of a scope and purpose and magnitude comparable with the nature of the Services to be provided under this Agreement. Contractor acknowledges that it is entrusted with or has access to valuable and confidential information and records of the City and with respect to that information, Contractor agrees to be held to the standard of care of a fiduciary. Any review, approval, acceptance of Services or Deliverables or payment for any of the Services by the City does not relieve Contractor of its responsibility for the professional skill and care and technical accuracy of its Services and Deliverables. This provision in no way limits the City's rights against Contractor under this Agreement, at law or in equity.

Contractor must be appropriately licensed to perform the Services, if required by law, and must ensure that all Services that require the exercise of professional skills or judgment are accomplished by professionals qualified and competent in the applicable discipline and appropriately licensed as may be required by law. Contractor must provide copies of any such licenses. Contractor remains responsible for the professional and technical accuracy of all Services or Deliverables furnished, whether by Contractor or its Subcontractors or others on its behalf. All Deliverables must be prepared in a form and content satisfactory to the Department and delivered in a timely manner consistent with the requirements of this Agreement.

If Contractor fails to comply with the foregoing standards, Contractor must, at the City's option, perform again, at its own expense, all Services required to be re-performed as a direct or indirect result of that failure, unless the reason is failure to have and maintain required licensure. See subsection 9.1 (b)(ii) regarding failure to comply with licensure requirements.

3.4 Personnel

(a) Adequate Staffing

Contractor must, upon receiving a fully executed copy of this Agreement, assign and maintain during the term of this Agreement and any extension of it an adequate staff of competent personnel that is fully equipped, licensed as appropriate, available as needed, qualified and assigned exclusively to perform the Services. Contractor must include among its staff the Key Personnel and positions as identified below. The level of staffing may be revised from time to time by notice in writing from Contractor to the City and with prior written consent of the City.

(b) Key Personnel

Contractor must not reassign or replace Key Personnel without the written consent of the City. "**Key Personnel**" means those job titles and the persons assigned to those positions in accordance with the provisions of this Section 3.4(b). The Department may at any time in writing notify Contractor that the City will no longer accept performance of Services under this Agreement by one or more Key Personnel listed. Upon that notice Contractor must immediately suspend the key person or persons from performing Services under this Agreement and must replace him or them in accordance with the terms of this Agreement. Key Personnel, if any, are identified in Exhibit 7.

(c) Salaries and Wages

Contractor and Subcontractors must pay all salaries and wages due all employees performing Services under this Agreement unconditionally and at least once a month without deduction or rebate on any account, except only for those payroll deductions that are mandatory by law or are permitted under applicable law and regulations. If in the performance of this Agreement Contractor underpays any such salaries or wages, the Comptroller for the City may withhold, out of payments due to Contractor, an amount sufficient to pay to employees underpaid the difference between the salaries or wages required to be paid under this Agreement and the salaries or wages actually paid these employees for the total number of hours worked. The amounts withheld may be disbursed by the Comptroller for and on account of Contractor to the respective employees to whom they are due. The parties

acknowledge that this Section 3.4(c) is solely for the benefit of the City and that it does not grant any third party beneficiary rights.

3.5 Minority and Women's Business Enterprises Commitment

In the performance of this Agreement, including the procurement and lease of materials or equipment, Contractor must abide by the minority and women's business enterprise commitment requirements of the Municipal Code of Chicago (**Municipal Code**), 2-92-420 *et seq.* (1990), except to the extent waived by the Chief Procurement Officer and the Special Conditions Regarding MBE/WBE Commitment set forth in Exhibit 3. Contractor's completed Schedules C-1 and D-1 in Exhibit 3, evidencing its compliance with this requirement, are a part of this Agreement, upon acceptance by the Chief Procurement Officer. Contractor must utilize minority and women's business enterprises at the greater of the amounts listed in those Schedules C-1 and D-1 or the percentages listed in them as applied to all payments received from the City.

3.6 Insurance

Contractor must provide and maintain at Contractor's own expense, during the term of this Agreement and any time period following expiration if Contractor is required to return and perform any of the Services or Additional Services under this Agreement, the insurance coverages and requirements specified in Exhibit 5 of this Agreement, insuring all operations related to this Agreement.

3.7 Indemnification

(a) Contractor must defend, indemnify, and hold harmless the City, its officers, representatives, elected and appointed officials, agents and employees from and against any and all Losses, including those related to:

(i) injury, death or damage of or to any person or property;

(ii) any infringement or violation of any property right (including any patent, trademark or copyright);

(iii) Contractor's failure to perform or cause to be performed Contractor's promises and obligations as and when required under this Agreement, including Contractor's failure to perform its obligations to any Subcontractor;

(iv) the City's exercise of its rights and remedies under Section 9.2 of this Agreement; and

(v) injuries to or death of any employee of Contractor or any Subcontractor under any workers compensation statute.

(b) "Losses" means, individually and collectively, liabilities of every kind, including losses, damages and reasonable costs, payments and expenses (such as, but not limited to, court costs and reasonable attorneys' fees and disbursements), claims, demands, actions, suits, proceedings, judgments or settlements, any or all of which in any way arise out of or relate to Contractor's breach of this Agreement or to Contractor's negligent or otherwise wrongful acts or omissions or those of its officers, agents, employees, Contractors, Subcontractors or licensees.

(c) At the City Corporation Counsel's option, Contractor must defend all suits brought upon all such Losses and must pay all costs and expenses incidental to them, but the City has the right, at its option, to participate, at its own cost, in the defense of any suit, without relieving Contractor of any of its obligations under this Agreement. Any settlement must be made only with the prior written consent of the City Corporation Counsel, if the settlement requires any action on the part of the City.

(d) To the extent permissible by law, Contractor waives any limits to the amount of its obligations to defend, indemnify, hold harmless, or contribute to any sums due under any Losses, including any claim by any employee of Contractor that may be subject to the Workers Compensation Act, 820 ILCS 305/1 *et seq.* or any other related law or judicial decision (such as, *Kotecki v. Cyclops Welding Corporation*, 146 Ill. 2d 155 (1991)). The City, however, does not waive any limitations it may have on its liability under the Illinois Workers Compensation Act, the Illinois Pension Code, any other statute or judicial decision.

(e) The indemnities in this section survive expiration or termination of this Agreement for matters occurring or arising during the term of this Agreement or as the result of or during Contractor's performance of Services beyond the term. Contractor acknowledges that the requirements set forth in this section to defend, indemnify, and hold harmless the City are apart from and not limited by the Contractor's duties under this Agreement, including the insurance requirements in Exhibit 5 of this Agreement.

3.8 Ownership of Documents

All Deliverables, data, findings or information in any form prepared, assembled or encountered by or provided to Contractor under this Agreement are property of the City, including, as further described in Section 3.9 below, all copyrights inherent in them or their preparation. During performance of its Services, Contractor is responsible for any loss or damage to the Deliverables, data, findings or information while in Contractor's or any Subcontractor's possession. Any such lost or damaged Deliverables, data, findings or information must be restored at the expense of Contractor. If not restorable,

Contractor must bear the cost of replacement and of any loss suffered by the City on account of the destruction, as provided in Section 3.7.

3.9 Copyright Ownership

Contractor and the City intend that, to the extent permitted by law, the Deliverables to be produced by Contractor at the City's instance and expense under this Agreement are conclusively deemed "works made for hire" within the meaning and purview of Section 101 of the United States Copyright Act, 17 U.S.C. 101 *et seq.*, and that the City will be the sole copyright owner of the Deliverables and of all aspects, elements and components of them in which copyright can subsist, and of all rights to apply for copyright registration or prosecute any claim of infringement.

To the extent that any Deliverable does not qualify as a "work made for hire," Contractor hereby irrevocably grants, conveys, bargains, sells, assigns, transfers and delivers to the City, its successors and assigns, all right, title and interest in and to the copyrights and all U.S. and foreign copyright registrations, copyright applications and copyright renewals for them, and other intangible, intellectual property embodied in or pertaining to the Deliverables prepared for the City under this Agreement, and all goodwill relating to them, free and clear of any liens, claims or other encumbrances, to the fullest extent permitted by law. Contractor will, and will cause all of its Subcontractors, employees, agents and other persons within its control to, execute all documents and perform all acts that the City may reasonably request in order to assist the City in perfecting its rights in and to the copyrights relating to the Deliverables, at the sole expense of the City. Contractor warrants to the City, its successors and assigns, that on the date of transfer Contractor is the lawful owner of good and marketable title in and to the copyrights for the Deliverables and has the legal rights to fully assign them. Contractor further warrants that it has not assigned and will not assign any copyrights and that it has not granted and will not grant any licenses, exclusive or nonexclusive, to any other party, and that it is not a party to any other agreements or subject to any other restrictions with respect to the Deliverables. Contractor warrants that the Deliverables are complete, entire and comprehensive, and that the Deliverables constitute a work of original authorship.

3.10 Records and Audits

(a) Records

(i) Contractor must deliver or cause to be delivered to the City all documents, including all Deliverables prepared for the City under the terms of this Agreement, promptly in accordance with the time limits prescribed in this Agreement, and if no time limit is specified, then upon reasonable demand for them or upon termination or completion of the Services under this Agreement. If Contractor fails to

make such delivery upon demand, then Contractor must pay to the City any damages the City may sustain by reason of Contractor's failure.

(ii) Contractor must maintain any such records including Deliverables not delivered to the City or demanded by the City for a period of 5 years after the final payment made in connection with this Agreement. Contractor must not dispose of such documents following the expiration of this period without notification of and written approval from the City in accordance with Article 11.

(b) **Audits**

(i) Contractor and any of Contractor's Subcontractors must furnish the Department with all information that may be requested pertaining to the performance and cost of the Services. Contractor must maintain records showing actual time devoted and costs incurred. Contractor must keep books, documents, papers, records and accounts in connection with the Services open to audit, inspection, copying, abstracting and transcription and must make these records available to the City and any other interested governmental agency, at reasonable times during the performance of its Services.

(ii) To the extent that Contractor conducts any business operations separate and apart from the Services required under this Agreement using, for example, personnel, equipment, supplies or facilities also used in connection with this Agreement, then Contractor must maintain and make similarly available to the City detailed records supporting Contractor's allocation to this Agreement of the costs and expenses attributable to any such shared usages.

(iii) Contractor must maintain its books, records, documents and other evidence and adopt accounting procedures and practices sufficient to reflect properly all costs of whatever nature claimed to have been incurred and anticipated to be incurred for or in connection with the performance of this Agreement. This system of accounting must be in accordance with generally accepted accounting principles and practices, consistently applied throughout.

(iv) No provision in this Agreement granting the City a right of access to records and documents is intended to impair, limit or affect any right of access to such records and documents which the City would have had in the absence of such provisions.

(v) The City may in its sole discretion audit the records of Contractor or its Subcontractors, or both, at any time during the term of this Agreement or within five years after the Agreement ends, in connection with the goods, work, or Services provided under this Agreement. Each calendar year or partial calendar year is considered an "audited period". If, as a result of any such audit, it is determined that Contractor or any of its Subcontractors has overcharged the City

in the audited period, the City will notify Contractor. Contractor must then promptly reimburse the City for any amounts the City has paid Contractor due to the overcharges and also some or all of the cost of the audit, as follows:

A. If the audit has revealed overcharges to the City representing less than 5% of the total value, based on the Agreement prices, of the goods, work, or Services provided in the audited period, then the Contractor must reimburse the City for 50% of the cost of the audit and 50% of the cost of each subsequent audit that the City conducts;

B. If, however, the audit has revealed overcharges to the City representing 5% or more of the total value, based on the Agreement prices, of the goods, work, or Services provided in the audited period, then Contractor must reimburse the City for the full cost of the audit and of each subsequent audit.

Failure of Contractor to reimburse the City in accordance with subsection A or B above is an event of default under Section 9.1 of this Agreement, and Contractor will be liable for all of the City's costs of collection, including any court costs and attorneys fees.

3.11 Confidentiality

(a) All Deliverables and reports, data, findings or information in any form prepared, assembled or encountered by or provided by Contractor under this Agreement are property of the City and are confidential, except as specifically authorized in this Agreement or as may be required by law. Contractor must not allow the Deliverables to be made available to any other individual or organization without the prior written consent of the City. Further, all documents and other information provided to Contractor by the City are confidential and must not be made available to any other individual or organization without the prior written consent of the City. Contractor must implement such measures as may be necessary to ensure that its staff and its Subcontractors are bound by the confidentiality provisions in this Agreement.

(b) Contractor must not issue any publicity news releases or grant press interviews, and except as may be required by law during or after the performance of this Agreement, disseminate any information regarding its Services or the project to which the Services pertain without the prior written consent of the Commissioner.

(c) If Contractor is presented with a request for documents by any administrative agency or with a subpoena duces tecum regarding any records, data or documents which may be in Contractor's possession by reason of this Agreement, Contractor must immediately give notice to the Commissioner and the Corporation

Counsel for the City with the understanding that the City will have the opportunity to contest such process by any means available to it before the records, data or documents are submitted to a court or other third party. Contractor, however, is not obligated to withhold the delivery beyond the time ordered by a court or administrative agency, unless the subpoena or request is quashed or the time to produce is otherwise extended.

(d) HIPAA and AIDS Confidentiality Act. To the extent not defined here the capitalized terms below and in Exhibit 6 will have the same meaning as set forth in the Health Insurance Portability and Accountability Act (Act). See 45 CFR parts 160, 162 and 164. Contractor and all its Subcontractors must comply with the Act and all rules and regulations applicable to it including the Privacy Rule, which sets forth the Standards for Privacy of Individually Identifiable Health Information at 45 CFR part 160 and part 164 subparts A and E; the Standards for Electronic Transactions, which are located at 45 CFR parts 160 and 162 and the Security Standards, which are located at 45 CFR parts 160, 162 and 164. Contractor must also comply with the Illinois AIDS Confidentiality Act (410 ILCS 305/1 through 16) and the rules and regulations of the Illinois Department of Public Health promulgated under it. If Contractor fails to comply with the applicable provisions under the ACT or the Illinois AIDS Confidentiality Act, such failure will constitute an event of default under this Agreement for which no opportunity for cure will be provided.

Additionally, if Contractor is a Business Associate it must comply with all requirements of the Act applicable to Business Associates including the provisions contained in Exhibit 6.

3.12 Assignments and Subcontracts

(a) Contractor must not assign, delegate or otherwise transfer all or any part of its rights or obligations under this Agreement: (i) unless otherwise provided for elsewhere in this Agreement; or (ii) without the express written consent of the Chief Procurement Officer and the Department. The absence of such a provision or written consent voids the attempted assignment, delegation or transfer and is of no effect as to the Services or this Agreement. No approvals given by the Chief Procurement Officer, including approvals for the use of any Subcontractors, operate to relieve Contractor of any of its obligations or liabilities under this Agreement.

(b) All Subcontractors are subject to the prior approval of the Chief Procurement Officer. Approval for the use of any Subcontractor in performance of the Services is conditioned upon performance by the Subcontractor in accordance with the terms and conditions of this Agreement. If any Subcontractor fails to perform the Services in accordance with the terms and conditions of this Agreement to the satisfaction of the Department, the City has the absolute right upon written notification to immediately rescind approval and to require the performance of this Agreement by

Contractor personally or through any other City-approved Subcontractor. Any approval for the use of Subcontractors in the performance of the Services under this Agreement under no circumstances operates to relieve Contractor of any of its obligations or liabilities under this Agreement.

(c) Contractor, upon entering into any agreement with a Subcontractor, must furnish upon request of the Chief Procurement Officer or the Department a copy of its agreement. Contractor must ensure that all subcontracts contain provisions that require the Services be performed in strict accordance with the requirements of this Agreement, provide that the Subcontractors are subject to all the terms of this Agreement and are subject to the approval of the Department and the Chief Procurement Officer. If the agreements do not prejudice any of the City's rights under this Agreement, such agreements may contain different provisions than are provided in this Agreement with respect to extensions of schedule, time of completion, payments, guarantees and matters not affecting the quality of the Services.

(d) Contractor must not transfer or assign any funds or claims due or to become due under this Agreement without the prior written approval of the Chief Procurement Officer. The attempted transfer or assignment of any funds, either in whole or in part, or any interest in them, which are due or to become due to Contractor under this Agreement, without such prior written approval, has no effect upon the City.

(e) Under 2-92-245 of the Municipal Code, the Chief Procurement Officer may make direct payments to Subcontractors for Services performed under this Agreement. Any such payment has the same effect as if the City had paid Contractor that amount directly. Such payment by the City to Contractor's Subcontractor under no circumstances operates to relieve Contractor of any of its obligations or liabilities under this Agreement. This section is solely for the benefit of the City and does not grant any third party beneficiary rights.

(f) The City reserves the right to assign or otherwise transfer all or any part of its interests under this Agreement to any successor.

ARTICLE 4. DURATION OF AGREEMENT

4.1 Term of Performance

This Agreement takes effect as of the Effective Date and continues, except as provided under Sections 5.6 or Article 9, until the later of (i) _____, as that date may be extended under Section 4.3, or (ii) completion of the final task assigned before the date, if and as extended, in (i).

4.2 Timeliness of Performance

(a) Contractor must provide the Services and Deliverables within the time limits required under any task order or request for services pursuant to the provisions of Section 3.1 and Exhibit 1. **Further, Contractor acknowledges that TIME IS OF THE ESSENCE and that the failure of Contractor to comply with the required time limits may result in economic or other losses to the City.**

(b) Neither Contractor nor Contractor's agents, employees or Subcontractors are entitled to any damages from the City, nor is any party entitled to be reimbursed by the City, for damages, charges or other losses or expenses incurred by Contractor by reason of delays or hindrances in the performance of the Services, whether or not caused by the City.

4.3 Agreement Extension Option

This Agreement will be in effect for the dates indicated within this Agreement for a ___ month term. The Chief Procurement Officer may exercise the City's right to extend this Agreement following the expiration of the base Agreement term for up to ___ months, subject to acceptable performance by the Contractor and contingent upon the appropriation of sufficient funds for the procurement of services provided for in this Agreement.

Before expiration of the then current Agreement term, the Chief Procurement Officer will give the Contractor notice, in writing, that the City is exercising its option to renew the Agreement for the approaching option period. The date on which the Chief Procurement Officer gives notice is the date the notice is mailed, if it is mailed, or the date the notice is delivered, if sent by courier or messenger service.

With the same amount of notice as for options, the City reserves the right to extend the Agreement for a period of no more than one hundred eighty-one (181) calendar days, either in lieu of exercising an option period or following the exhaustion of all option periods, for the purpose of providing continuity of service while procuring a replacement contract.

ARTICLE 5. COMPENSATION

5.1 Basis of Payment

The City will pay Contractor according to the Schedule of Compensation in the attached Exhibit 2 for the completion of the Services in accordance with this Agreement, including the standard of performance in Section 3.3.

5.2 Method of Payment

Contractor must submit monthly invoices to the City for costs billed, as outlined in the Schedule of Compensation in Exhibit 2. The invoices must be in such detail as the City requests. The City will process payment within 60 days after receipt of invoices and all supporting documentation necessary for the City to verify the Services provided under this Agreement.

5.3 Invoices

This contract is subject to Centralized Invoice Processing ("CIP"). Invoices must be submitted directly to the Comptroller's office by US Postal Service mail to the following address:

INVOICES
City of Chicago, Office of the City Comptroller
33 N. LaSalle St., Room 700
Chicago, IL 60602

OR

Via email to: INVOICES@cityofchicago.org with the word INVOICE in the subject line.

All invoices must be signed, marked "original," and include the following information or payment will be delayed:

- Invoice number and date
- Contract/Purchase Order number
- Blanket Release number (if applicable)
- Vendor name and/or number
- Remittance address
- Name of City Department that ordered the goods or services
- Name and phone number of your contact at the ordering department
- Invoice quantities, commodity codes, description of deliverable(s)
- Amount due
- Receipt number (provided by the ordering department after delivery of goods/services)

Invoice quantities, service description, unit of measure, pricing and/or catalog information must correspond to the terms of the compensation schedule.

If applicable, if invoicing Price List/Catalog items, indicate Price List/Catalog number, item number, Price List/Catalog date, and Price List/Catalog page number on the invoice. Invoices for over-shipments or items with price/wage escalations will be rejected unless the Contract includes a provision for such an adjustment.

Freight, handling and shipping costs are not to be invoiced; deliveries are to be made F.O.B., City of Chicago. As stated the City of Chicago is exempt from paying State of Illinois sales tax and Federal excise taxes on purchases.

If required, Subcontractor Payment Certification forms must be mailed to the department that ordered the goods or services.

5.4 Taxes

Federal Excise Tax does not apply to materials purchased by the City of Chicago by virtue of Exemption Certificate No. 36-6005820 and State of Illinois Sales Tax does not apply by virtue of Exemption Certificate No. E9998-1874-07. Illinois Retailers Occupation Tax, Use Tax, and Municipal Retailers Occupation Tax do not apply to materials or services purchased by the City of Chicago by virtue of Statute. The price or prices quoted herein shall include all other Federal and/or State, direct and/or indirect taxes which apply. The prices quoted herein shall comply with all Federal laws and regulations.

5.5 Funding

The source of funds for payments under this Agreement is Fund number _____. Payments under this Agreement must not exceed $ _____ without a written amendment in accordance with Section 10.3. Funding for this Agreement is subject to the availability of funds and their appropriation by the City Council of the City.

5.6 Non-Appropriation

If no funds or insufficient funds are appropriated and budgeted in any fiscal period of the City for payments to be made under this Agreement, then the City will notify Contractor in writing of that occurrence, and this Agreement will terminate on the earlier of the last day of the fiscal period for which sufficient appropriation was made or whenever the funds appropriated for payment under this Agreement are exhausted. Payments for Services completed to the date of notification will be made to Contractor except that no payments will be made or due to Contractor under this Agreement

beyond those amounts appropriated and budgeted by the City to fund payments under this Agreement.

5.7 Subcontractor Payments

The Contractor will be responsible for reporting payments to all Subcontractors on a monthly basis in the form of an electronic audit. Upon the first payment issued by the City of Chicago to the Contractor for services performed, on the first day of each month and every month thereafter, e-mail and/or fax audit notifications will be sent out to the Contractor with instructions to report payments that have been made in the prior month to each Subcontractor. The reporting of payments to all Subcontractors must be entered into the Certification and Compliance Monitoring System (C2), or whatever reporting system is currently in place, on or before the fifteenth (15th) day of each month.

Once the Contractor has reported payments made to each MBE and WBE, including zero dollar amount payments, the MBE and WBE will receive an e-mail and/or fax notification requesting them to log onto the system and confirm payments received. All monthly confirmations must be reported on or before the 20th day of each month. Contractor and Subcontractor reporting to the C2 system must be completed by the 25th of each month or payments may be withheld.

Access to the Certification and Compliance Monitoring System (C2), which is a web based reporting system, can be found at https://chicago.mwdbe.com.

ARTICLE 6. DISPUTES

Except as otherwise provided in this Agreement, Contractor must and the City may bring any dispute arising under this Agreement which is not resolved by the parties to the Chief Procurement Officer for decision based upon the written submissions of the parties. (A copy of the "Regulations of the Department of Procurement Services for Resolution of Disputes between Contractors and the City of Chicago" is available in City Hall, 121 N. LaSalle Street, Room 301, Bid and Bond Room, Chicago, Illinois 60602.) The Chief Procurement Officer will issue a written decision and send it to the Contractor by mail. The decision of the Chief Procurement Officer is final and binding. The sole and exclusive remedy to challenge the decision of the Chief Procurement Officer is judicial review by means of a common law writ of certiorari.

ARTICLE 7. COMPLIANCE WITH ALL LAWS

7.1 Compliance with All Laws Generally

(a) Contractor must observe and comply with all applicable federal, state, county and municipal laws, statutes, ordinances and executive orders, in effect now or

later and whether or not they appear in this Agreement, including those set forth in this Article 7, and Contractor must pay all taxes and obtain all licenses, certificates and other authorizations required by them. Contractor must require all Subcontractors to do so, also. Further, Contractor must execute an online Economic Disclosure Statement and Affidavit ("**EDS**") which includes a Disclosure of Retained Parties. Submit an electronically signed, one page Certificate of Filing to Exhibit 4 which validates that the EDS has been filed. The web address to submit your EDS is http://webapps.cityofchicago.org/EDSWeb. Notwithstanding acceptance by the City of the EDS, Contractor's failure in the EDS to include all information required under the Municipal Code renders this Agreement voidable at the option of the City. Contractor must promptly update its online EDS(s) with the City whenever any information or response provided in the EDS(s) is no longer complete and accurate.

(b) Notwithstanding anything in this Agreement to the contrary, references to a statute or law are considered to be a reference to (i) the statute or law as it may be amended from time to time; (ii) all regulations and rules pertaining to or promulgated pursuant to the statute or law; and (iii) all future statutes, laws, regulations, rules and executive orders pertaining to the same or similar subject matter.

(c) The Contractor will comply with Section 2-154-020 of the Municipal Code of Chicago.

Failure by the Contractor or any controlling person (as defined in Section 1-23-010 of the Municipal Code of Chicago) thereof to maintain eligibility to do business with the City of Chicago as required by Section 1-23-030 of the Municipal Code of Chicago shall be grounds for termination of this Agreement.

7.2 Nondiscrimination

(a) **Contractor**

Contractor must comply with applicable federal, state, and local laws and related regulations prohibiting discrimination against individuals and groups. If this Agreement is federally funded in whole or in part, additional provisions related to nondiscrimination may be set forth in Agreement.

(i) **Federal Requirements**

Contractor must not engage in unlawful employment practices, such as (1) failing or refusing to hire or discharging any individual, or otherwise discriminating against any individual with respect to compensation or the terms, conditions, or privileges of the individual's employment, because of the individual's race, color, religion, sex, age, handicap/disability or national origin; or (2) limiting,

segregating or classifying Contractor's employees or applicants for employment in any way that would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect the individual's status as an employee, because of the individual's race, color, religion, sex, age, handicap/disability or national origin.

Contractor must comply with, and the procedures Contractor utilizes and the Services Contractor provides under this Agreement must comply with, the Civil Rights Act of 1964, 42 U.S.C. sec. 2000e *et seq.* (1981), as amended and the Civil Rights Act of 1991, P.L. 102-166. Attention is called to: Exec. Order No. 11246, 30 Fed. Reg. 12,319 (1965), reprinted in 42 U.S.C. 2000e note, as amended by Exec. Order No. 11375, 32 Fed. Reg. 14,303 (1967) and by Exec. Order No. 12086, 43 Fed. Reg. 46,501 (1978); Age Discrimination Act, 42 U.S.C. 6101-6106 (1981); Age Discrimination in Employment Act, 29 U.S.C. 621-34; Rehabilitation Act of 1973, 29 U.S.C. 793-794 (1981); Americans with Disabilities Act, 42 U.S.C. 12101 *et seq.*; 41 C.F.R. Part 60 *et seq.* (1990); and all other applicable federal statutes, regulations and other laws.

(ii) **State Requirements**

Contractor must comply with, and the procedures Contractor utilizes and the Services Contractor provides under this Agreement must comply with, the Illinois Human Rights Act, 775 ILCS 5/1-101 *et seq.* (1990), as amended and any rules and regulations promulgated in accordance with it, including the Equal Employment Opportunity Clause, 44 Ill. Admin. Code 750 Appendix A. Furthermore, Contractor must comply with the Public Works Employment Discrimination Act, 775 ILCS 10/0.01 *et seq.* (1990), as amended, and all other applicable state statutes, regulations and other laws.

(iii) **City Requirements**

Contractor must comply with, and the procedures Contractor utilizes and the Services Contractor provides under this Agreement must comply with, the Chicago Human Rights Ordinance, ch. 2-160, Section 2-160-010 *et seq.* of the Municipal Code of Chicago (1990), as amended, and all other applicable City ordinances and rules.

(b) **Subcontractors**

Contractor must incorporate all of this Section 7.2 by reference in all agreements entered into with any suppliers of materials, furnisher of services, Subcontractors of any tier, and labor organizations that furnish skilled, unskilled and craft union skilled labor, or that may provide any such materials, labor or services in connection with this Agreement. Further, Contractor must furnish and must cause each of its

Subcontractor(s) to furnish such reports and information as requested by the federal, state, and local agencies charged with enforcing such laws and regulations, including the Chicago Commission on Human Relations.

7.3 Inspector General

It is the duty of any bidder, proposer or Contractor, all Subcontractors, every applicant for certification of eligibility for a City contract or program, and all officers, directors, agents, partners and employees of any bidder, proposer, Contractor, Subcontractor or such applicant to cooperate with the Inspector General or Legislative Inspector General in any investigation or hearing undertaken pursuant to Chapter 2-56 or 2-55, respectively, of the Municipal Code. Contractor understands and will abide by all provisions of Chapter 2-56 and 2-55 of the Municipal Code. All subcontracts must inform Subcontractors of the provision and require understanding and compliance with it.

7.4 MacBride Ordinance

The City of Chicago through the passage of the MacBride Principles Ordinance seeks to promote fair and equal employment opportunities and labor practices for religious minorities in Northern Ireland and provide a better working environment for all citizens in Northern Ireland.

In accordance with Section 2-92-580 of the Municipal Code of the City of Chicago, if Contractor conducts any business operations in Northern Ireland, the Contractor must make all reasonable and good faith efforts to conduct any business operations in Northern Ireland in accordance with the MacBride Principles for Northern Ireland as defined in Illinois Public Act 85-1390 (1988 Ill. Laws 3220).

The provisions of this Section 7.5 do not apply to contracts for which the City receives funds administered by the United States Department of Transportation, except to the extent Congress has directed that the Department of Transportation not withhold funds from states and localities that choose to implement selective purchasing policies based on agreement to comply with the MacBride Principles for Northern Ireland, or to the extent that such funds are not otherwise withheld by the Department of Transportation.

7.5 Business Relationships with Elected Officials

Pursuant to 2-156-030(b) of the Municipal Code , it is illegal for any elected official of the City, or any person acting at the direction of such official, to contact, either orally or in writing, any other City official or employee with respect to any matter involving any person with whom the elected official has a business relationship, or to participate in any discussion in any City Council committee hearing or in any City

Council meeting or to vote on any matter involving the person with whom an elected official has a business relationship. Violation of Section 2-156-030(b) by any elected official with respect to this Agreement is grounds for termination of this Agreement. The term business relationship is defined as set forth in 2-156-080 of the Municipal Code.

Section 2-156-080 defines a "business relationship" as any contractual or other private business dealing of an official, or his or her spouse, or of any entity in which an official or his or her spouse has a financial interest, with a person or entity which entitles an official to compensation or payment in the amount of $2,500 or more in a calendar year; provided, however, a financial interest shall not include: (i) any ownership through purchase at fair market value or inheritance of less than one percent of the share of a corporation, or any corporate subsidiary, parent or affiliate thereof, regardless of the value of or dividends on such shares, if such shares are registered on a securities exchange pursuant to the Securities Exchange Act of 1934, as amended; (ii) the authorized compensation paid to an official or employee for his office or employment; (iii) any economic benefit provided equally to all residents of the City; (iv) a time or demand deposit in a financial institution; or (v) an endowment or insurance policy or annuity contract purchased from an insurance company. A " contractual or other private business dealing" shall not include any employment relationship of an officials spouse with an entity when such spouse has no discretion concerning or input relating to the relationship between that entity and the City.

7.6 Chicago "Living Wage" Ordinance

(a) Section 2-92-610 of the Municipal Code provides for a living wage for certain categories of workers employed in the performance of City contracts, specifically non-City employed security guards, parking attendants, day laborers, home and health care workers, cashiers, elevator operators, custodial workers and clerical workers ("**Covered Employees**"). Accordingly, pursuant to Section 2-92-610 and regulations promulgated under it:

(i) If Contractor has 25 or more full-time employees, and

(ii) If at any time during the performance of this Agreement, Contractor and/or any Subcontractor or any other entity that provides any portion of the Services (collectively "**Performing Parties**") uses 25 or more full-time security guards, or any number of other full-time Covered Employees, then

(iii) Contractor must pay its Covered Employees, and must ensure that all other Performing Parties pay their Covered Employees, not less than the minimum hourly rate as determined in accordance with this provision (the "**Base Wage**") for all Services performed under this Agreement.

(b) Contractor's obligation to pay, and to ensure payment of, the Base Wage will begin at any time during the term of this Agreement when the conditions set forth in (a)(i) and (a)(ii) above are met, and will continue until the end of the term of this Agreement.

(c) As of July 1, 2013, the Base Wage is $11.78 per hour, and each July 1 thereafter, the Base Wage will be adjusted using the most recent federal poverty guidelines for a family of four as published annually by the U.S. Department of Health and Human Services, to constitute the following: the poverty guidelines for a family of four divided by 2000 hours or the current base wage, whichever is higher. The currently applicable Base Wage is available from the Department of Procurement Services. At all times during the term of this Agreement, Contractor and all other Performing Parties must pay the Base Wage (as adjusted in accordance with the above). If the payment of prevailing wages is required for Services done under this Agreement, and the prevailing wages for Covered Employees are higher than the Base Wage, then Contractor and all other Performing Parties must pay the prevailing wage rates.

(d) Contractor must include provisions in all subcontracts requiring its Subcontractors to pay the Base Wage to Covered Employees. Contractor agrees to provide the City with documentation acceptable to the Chief Procurement Officer demonstrating that all Covered Employees, whether employed by Contractor or by a Subcontractor, have been paid the Base Wage, upon the City's request for such documentation. The City may independently audit Contractor and/or Subcontractors to verify compliance with this section. Failure to comply with the requirements of this section will be an event of default under this Agreement, and further, failure to comply may result in ineligibility for any award of a City contract or subcontract for up to 3 years.

(e) Not-for-Profit Corporations: If Contractor is a corporation having federal tax-exempt status under Section 501(c)(3) of the Internal Revenue Code and is recognized under Illinois not-for-profit law, then the provisions of subsections (a) through (d) above do not apply.

7.7 Environmental Warranties and Representations

In accordance with Section 11-4-1600(e) of the Municipal Code of Chicago, Contractor warrants and represents that it, and to the best of its knowledge, its subcontractors have not violated and are not in violation of the following sections of the Code (collectively, the Waste Sections):

7-28-390 Dumping on public way;
7-28-440 Dumping on real estate without permit;
11-4-1410 Disposal in waters prohibited;

11-4-1420 Ballast tank, bilge tank or other discharge;
11-4-1450 Gas manufacturing residue;
11-4-1500 Treatment and disposal of solid or liquid waste;
11-4-1530 Compliance with rules and regulations required;
11-4-1550 Operational requirements; and
11-4-1560 Screening requirements.

During the period while this Agreement is executory, Contractor's or any subcontractor's violation of the Waste Sections, whether or not relating to the performance of this Agreement, constitutes a breach of and an event of default under this Agreement, for which the opportunity to cure, if curable, will be granted only at the sole discretion of the Chief Procurement Officer. Such breach and default entitles the City to all remedies under the Agreement, at law or in equity.

This section does not limit Contractor's and its subcontractors duty to comply with all applicable federal, state, county and municipal laws, statutes, ordinances and executive orders, in effect now or later, and whether or not they appear in this Agreement.

Non-compliance with these terms and conditions may be used by the City as grounds for the termination of this Agreement, and may further affect Contractor's eligibility for future contract awards.

7.8 Prohibition on Certain Contributions

Contractor agrees that Contractor, any person or entity who directly or indirectly has an ownership or beneficial interest in Contractor of more than 7.5 percent ("**Owners**"), spouses and domestic partners of such Owners, Contractor's subcontractors, any person or entity who directly or indirectly has an ownership or beneficial interest in any subcontractor of more than 7.5 percent ("**Sub-owners**") and spouses and domestic partners of such Sub-owners (Contractor and all the other preceding classes of persons and entities are together, the "**Identified Parties**"), shall not make a contribution of any amount to the Mayor of the City of Chicago ("**Mayor**") or to his political fundraising committee (i) after execution of this Agreement by Contractor, (ii) while this Agreement or any Other Contract is executory, (iii) during the term of this Agreement or any Other Contract between Contractor and the City, or (iv) during any period while an extension of this Agreement or any Other Contract is being sought or negotiated.

Contractor represents and warrants that since the date of public advertisement of the specification, request for qualifications, request for proposals or request for information (or any combination of those requests) or, if not competitively procured, from the date the City approached Contractor or the date Contractor approached the City, as applicable, regarding the formulation of this Agreement, no Identified Parties

have made a contribution of any amount to the Mayor or to his political fundraising committee.

Contractor agrees that it shall not: (a) coerce, compel or intimidate its employees to make a contribution of any amount to the Mayor or to the Mayor's political fundraising committee; (b) reimburse its employees for a contribution of any amount made to the Mayor or to the Mayor's political fundraising committee; or (c) bundle or solicit others to bundle contributions to the Mayor or to his political fundraising committee.

Contractor agrees that the Identified Parties must not engage in any conduct whatsoever designed to intentionally violate this provision or Mayoral Executive Order No. 2011-4 or to entice, direct or solicit others to intentionally violate this provision or Mayoral Executive Order No. 2011-4.

Contractor agrees that a violation of, non-compliance with, misrepresentation with respect to, or breach of any covenant or warranty under this provision or violation of Mayoral Executive Order No. 2011-4 constitutes a breach and default under this Agreement, and under any Other Contract for which no opportunity to cure will be granted. Such breach and default entitles the City to all remedies (including without limitation termination for default) under this Agreement, under Other Contract, at law and in equity. This provision amends any Other Contract and supersedes any inconsistent provision contained therein.

If Contractor violates this provision or Mayoral Executive Order No. 2011-4 prior to award of the Agreement resulting from this specification, the Chief Procurement Officer may reject Contractor's bid.

For purposes of this provision:

Bundle means to collect contributions from more than one source which are then delivered by one person to the Mayor or to his political fundraising committee.

Other Contract" means any other agreement with the City of Chicago to which Contractor is a party that is (i) formed under the authority of chapter 2-92 of the Municipal Code of Chicago; (ii) entered into for the purchase or lease of real or personal property; or (iii) for materials, supplies, equipment or services which are approved or authorized by the city council.

"Contribution" means a "political contribution" as defined in Chapter 2-156 of the Municipal Code of Chicago, as amended.

Individuals are Domestic Partners if they satisfy the following criteria:

(A) they are each other's sole domestic partner, responsible for each other's common welfare; and
(B) neither party is married; and
(C) the partners are not related by blood closer than would bar marriage in the State of Illinois; and
(D) each partner is at least 18 years of age, and the partners are the same sex, and the partners reside at the same residence; and
(E) two of the following four conditions exist for the partners:
    1. The partners have been residing together for at least 12 months.
    2. The partners have common or joint ownership of a residence.
    3. The partners have at least two of the following arrangements:
        a. joint ownership of a motor vehicle;
        b. a joint credit account;
        c. a joint checking account;
        d. a lease for a residence identifying both domestic partners as tenants.
    4. Each partner identifies the other partner as a primary beneficiary in a will.

"Political fundraising committee" means a "political fundraising committee" as defined in Chapter 2-156 of the Municipal code of Chicago, as amended."

7.9 Firms Owned or Operated by Individuals with Disabilities

The City encourages Contractors to use Subcontractors that are firms owned or operated by individuals with disabilities, as defined by Section 2-92-586 of the Municipal Code of the City of Chicago, where not otherwise prohibited by federal or state law.

7.10 Deemed Inclusion

Provisions required by law, ordinances, rules, regulations, or executive orders to be inserted in this Agreement are deemed inserted in this Agreement whether or not they appear in this Agreement or, upon application by either party, this Agreement will be amended to make the insertion; however, in no event will the failure to insert the provisions before or after this Agreement is signed prevent its enforcement.

7.11 False Statements

(a) 1-21-010 False Statements

Any person who knowingly makes a false statement of material fact to the

city in violation of any statute, ordinance or regulation, or who knowingly falsifies any statement of material fact made in connection with an application, report, affidavit, oath, or attestation, including a statement of material fact made in connection with a bid, proposal, contract or economic disclosure statement or affidavit, is liable to the city for a civil penalty of not less than $500.00 and not more than $1,000.00, plus up to three times the amount of damages which the city sustains because of the person's violation of this section. A person who violates this section shall also be liable for the city's litigation and collection costs and attorney's fees.

The penalties imposed by this section shall be in addition to any other penalty provided for in the municipal code. (Added Coun. J. 12-15-04, p. 39915, § 1)

(b) 1-21-020 Aiding and abetting.

Any person who aids, abets, incites, compels or coerces the doing of any act prohibited by this chapter shall be liable to the city for the same penalties for the violation. (Added Coun. J. 12-15-04, p. 39915, § 1)

(c) 1-21-030 Enforcement.

In addition to any other means authorized by law, the corporation counsel may enforce this chapter by instituting an action with the department of administrative hearings. (Added Coun. J. 12-15-04, p. 39915, § 1)

ARTICLE 8. SPECIAL CONDITIONS

8.1 Warranties and Representations

In connection with signing and carrying out this Agreement, Contractor:

(a) warrants that Contractor is appropriately licensed under Illinois law to perform the Services required under this Agreement and will perform no Services for which a professional license is required by law and for which Contractor is not appropriately licensed;

(b) warrants it is financially solvent; it and each of its employees, agents and Subcontractors of any tier are competent to perform the Services required under this Agreement; and Contractor is legally authorized to execute and perform or cause to be performed this Agreement under the terms and conditions stated in this Agreement;

(c) warrants that it will not knowingly use the services of any ineligible contractor or Subcontractor for any purpose in the performance of its Services under this Agreement;

(d) warrants that Contractor and its Subcontractors are not in default at the time this Agreement is signed, and have not been deemed by the Chief Procurement Officer to have, within 5 years immediately preceding the date of this Agreement, been found to be in default on any contract awarded by the City ;

(e) represents that it has carefully examined and analyzed the provisions and requirements of this Agreement; it understands the nature of the Services required; from its own analysis it has satisfied itself as to the nature of all things needed for the performance of this Agreement; this Agreement is feasible of performance in accordance with all of its provisions and requirements, and Contractor warrants it can and will perform, or cause to be performed, the Services in strict accordance with the provisions and requirements of this Agreement;

(f) represents that Contractor and, to the best of its knowledge, its Subcontractors are not in violation of the provisions of 2-92-320 of the Municipal Code , and in connection with it, and additionally in connection with the Illinois Criminal Code, 720 ILCS 5/33E as amended, and the Illinois Municipal Code, 65 ILCS 5/11-42.1-1;

(g) acknowledges that any certification, affidavit or acknowledgment made under oath in connection with this Agreement is made under penalty of perjury and, if false, is also cause for termination under Sections 9.2 and 9.3 of this Agreement; and

(h) warrants and represents that neither Contractor nor an Affiliate of Contractor (as defined below) appears on the Specially Designated Nationals List, the Denied Persons List, the unverified List, the Entity List, or the Debarred List as maintained by the Office of Foreign Assets Control of the U.S. Department of the Treasury or by the Bureau of Industry and Security of the U.S. Department of Commerce (or their successors), or on any other list of persons or entities with which the City may not do business under any applicable law, rule, regulation, order or judgment. "Affiliate of Contractor" means a person or entity that directly (or indirectly through one or more intermediaries) controls, is controlled by or is under common control with Contractor. A person or entity will be deemed to be controlled by another person or entity if it is controlled in any manner whatsoever that results in control in fact by that other person or entity (either acting individually or acting jointly or in concert with others) whether directly or indirectly and whether through share ownership, a trust, a contract or otherwise.

8.2 Ethics

(a) In addition to the foregoing warranties and representations, Contractor warrants:

(i) no officer, agent or employee of the City is employed by Contractor or has a financial interest directly or indirectly in this Agreement or the compensation to be paid under this Agreement except as may be permitted in writing by the Board of Ethics established under Chapter 2-156 of the Municipal Code .

(ii) no payment, gratuity or offer of employment will be made in connection with this Agreement by or on behalf of any Subcontractors to Contractor or higher tier Subcontractors or anyone associated with them, as an inducement for the award of a subcontract or order.

(b) Contractor further acknowledges that any Agreement entered into, negotiated or performed in violation of any of the provisions of Chapter 2-156 is voidable as to the City.

8.3 Joint and Several Liability

If Contractor, or its successors or assigns, if any, is comprised of more than one individual or other legal entity (or a combination of them), then under this Agreement, each and without limitation every obligation or undertaking in this Agreement to be fulfilled or performed by Contractor is the joint and several obligation or undertaking of each such individual or other legal entity.

8.4 Business Documents

At the request of the City, Contractor must provide copies of its latest articles of incorporation, by-laws and resolutions, or partnership or joint venture agreement, as applicable.

8.5 Conflicts of Interest

(a) No member of the governing body of the City or other unit of government and
no other officer, employee or agent of the City or other unit of government who exercises any functions or responsibilities in connection with the Services to which this Agreement pertains is permitted to have any personal interest, direct or indirect, in this Agreement. No member of or delegate to the Congress of the United States or the Illinois General Assembly and no alderman of the City or City employee is allowed to be admitted to any share or part of this Agreement or to any financial benefit to arise from it.

(b) Contractor represents that it, and to the best of its knowledge, its

Subcontractors if any (Contractor and Subcontractors will be collectively referred to in this Section 8.5 as "**Consulting Parties**"), presently have no direct or indirect interest and will not acquire any direct or indirect interest in any project or contract that would conflict in any manner or degree with the performance of its Services under this Agreement.

(c) Upon the request of the City, Consulting Parties must disclose to the City their past client lists and the names of any clients with whom they have an ongoing relationship. Consulting Parties are not permitted to perform any Services for the City on applications or other documents submitted to the City by any of Consulting Parties' past or present clients. If Consulting Parties become aware of a conflict, they must immediately stop work on the assignment causing the conflict and notify the City.

(d) Without limiting the foregoing, if the Consulting Parties assist the City in determining the advisability or feasibility of a project or in recommending, researching, preparing, drafting or issuing a request for proposals or bid specifications for a project, the Consulting Parties must not participate, directly or indirectly, as a prime, subcontractor or joint venturer in that project or in the preparation of a proposal or bid for that project during the term of this Agreement or afterwards. The Consulting Parties may, however, assist the City in reviewing the proposals or bids for the project if none of the Consulting Parties have a relationship with the persons or entities that submitted the proposals or bids for that project.

(e) Further, Consulting Parties must not assign any person having any conflicting interest to perform any Services under this Agreement or have access to any confidential information, as described in Section 3.11 of this Agreement. If the City, by the Commissioner in his reasonable judgment, determines that any of Consulting Parties' services for others conflict with the Services that Consulting Parties are to render for the City under this Agreement, Consulting Parties must terminate such other services immediately upon request of the City.

(f) Furthermore, if any federal funds are to be used to compensate or reimburse Contractor under this Agreement, Contractor represents that it is and will remain in compliance with federal restrictions on lobbying set forth in Section 319 of the Department of the Interior and Related Agencies Appropriations Act for Fiscal Year 1990, 31 U.S.C. 1352, and related rules and regulations set forth at 54 Fed. Reg. 52,309 ff. (1989), as amended. If federal funds are to be used, Contractor must execute a Certification Regarding Lobbying, which is part of the EDS and incorporated by reference as if fully set forth here.

8.6 Non-Liability of Public Officials

Contractor and any assignee or Subcontractor of Contractor must not charge any official, employee or agent of the City personally with any liability or expenses of

defense or hold any official, employee or agent of the City personally liable to them under any term or provision of this Agreement or because of the City's execution, attempted execution or any breach of this Agreement.

8.7 EDS / Certification Regarding Suspension and Debarment

Contractor certifies, as further evidenced in the EDS attached as Exhibit 4, by its acceptance of this Agreement that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in this transaction by any federal department or agency. Contractor further agrees by executing this Agreement that it will include this clause without modification in all lower tier transactions, solicitations, proposals, contracts and subcontracts. If Contractor or any lower tier participant is unable to certify to this statement, it must attach an explanation to the Agreement.

ARTICLE 9. EVENTS OF DEFAULT, REMEDIES, TERMINATION, SUSPENSION AND RIGHT TO OFFSET

9.1 Events of Default Defined

The following constitute events of default:

(a) Any material misrepresentation, whether negligent or willful and whether in the inducement or in the performance, made by Contractor to the City.

(b) Contractor's failure to perform any of its obligations under this Agreement including the following:

(i) Failure to perform the Services with sufficient personnel and equipment or with sufficient material to ensure the timely performance of the Services;

(ii) Failure to have and maintain all professional licenses required by law to perform the Services;

(iii) Failure to timely perform the Services;

(iv) Failure to perform the Services in a manner reasonably satisfactory to the Commissioner or the Chief Procurement Officer or inability to perform the Services satisfactorily as a result of insolvency, filing for bankruptcy or assignment for the benefit of creditors;

(v) Failure to promptly re-perform, as required, within a reasonable time and at no cost to the City, Services that are rejected as erroneous or unsatisfactory;

(vi) Discontinuance of the Services for reasons within Contractor's reasonable control;

(vii) Failure to comply with Section 7.1 in the performance of the Agreement;

(viii) Failure promptly to update EDS(s) furnished in connection with this Agreement when the information or responses contained in it or them is no longer complete or accurate; and

(ix) Any other acts specifically stated in this Agreement as constituting an act of default.

(c) Any change in ownership or control of Contractor without the prior written approval of the Chief Procurement Officer (when such prior approval is permissible by law), which approval the Chief Procurement Officer will not unreasonably withhold.

(c) Contractor's default under any other agreement it may presently have or

may enter into with the City for the duration of this Agreement. Contractor acknowledges that in the event of a default under this Agreement the City may also declare a default under any such other agreements.

(e) Contractor's violation of City ordinance(s) unrelated to performance under the Agreement such that, in the opinion of the Chief Procurement Officer, it indicates a willful or reckless disregard for City laws and regulations.

(f) Contractor's failure to update its EDS to reflect any changes in information, including changes in ownership, and to provide it to the City as provided under Section 7.1(a).

9.2 Remedies

(a) Notices. The occurrence of any event of default permits the City, at the City's sole option, to declare Contractor in default. The Chief Procurement Officer may in his sole discretion give Contractor an opportunity to cure the default within a certain period of time, which period of time must not exceed 30 days unless extended by the Chief Procurement Officer. Whether to declare Contractor in default is within the sole discretion of the Chief Procurement Officer and neither that decision nor the factual basis for it is subject to review or challenge under the Disputes provision of this Agreement.

The Chief Procurement Officer will give Contractor written notice of the default, either in the form of a cure notice ("**Cure Notice**"), or, if no opportunity to cure will be granted, a default notice ("**Default Notice**"). If the Chief Procurement Officer gives a Default Notice, he will also indicate any present intent he may have to terminate this Agreement, and the decision to terminate is final and effective upon giving the notice. If the Chief Procurement Officer decides not to terminate, this decision will not preclude him from later deciding to terminate the Agreement in a later notice, which will be final and effective upon the giving of the notice or on the date set forth in the notice, whichever is later. The Chief Procurement Officer may give a Default Notice if Contractor fails to effect a cure within the cure period given in a Cure Notice. When a Default Notice with intent to terminate is given as provided in this Section 9.2 and Article 11, Contractor must discontinue any Services, unless otherwise directed in the notice, and deliver all materials accumulated in the performance of this Agreement, whether completed or in the process, to the City.

(b) Exercise of Remedies. After giving a Default Notice, the City may invoke any or all of the following remedies:

(i) The right to take over and complete the Services, or any part of them, at Contractor's expense and as agent for Contractor, either directly or through others, and bill Contractor for the cost of the Services, and Contractor must pay the difference between the total amount of this bill and the amount the City would have paid Contractor under the terms and conditions of this Agreement for the Services that were assumed by the City as agent for Contractor under this Section 9.2;

(ii) The right to terminate this Agreement as to any or all of the Services yet to be performed effective at a time specified by the City;

(iii) The right of specific performance, an injunction or any other appropriate equitable remedy;

(iv) The right to money damages;

(v) The right to withhold all or any part of Contractor's compensation under this Agreement;

(vi) The right to deem Contractor non-responsible in future contracts to be awarded by the City;

(vii) The right to declare default on any other contract or agreement Contractor may have with the City.

(c) City's Reservation of Rights. If the Chief Procurement Officer considers it to be in the City's best interests, he may elect not to declare default or to terminate this Agreement. The parties acknowledge that this provision is solely for the benefit of the City and that if the City permits Contractor to continue to provide the Services despite one or more events of default, Contractor is in no way relieved of any of its responsibilities, duties or obligations under this Agreement, nor does the City waive or relinquish any of its rights.

(d) Non-Exclusivity of Remedies. The remedies under the terms of this Agreement are not intended to be exclusive of any other remedies provided, but each and every such remedy is cumulative and is in addition to any other remedies, existing now or later, at law, in equity or by statute. No delay or omission to exercise any right or power accruing upon any event of default impairs any such right or power, nor is it a waiver of any event of default nor acquiescence in it, and every such right and power may be exercised from time to time and as often as the City considers expedient.

9.3 Early Termination

(a) In addition to termination under Sections 9.1 and 9.2 of this Agreement, the City may terminate this Agreement, or all or any portion of the Services to be performed under it, at any time by a notice in writing from the City to Contractor. The City will give notice to Contractor in accordance with the provisions of Article 11. The effective date of termination will be the date the notice is received by Contractor or the date stated in the notice, whichever is later. If the City elects to terminate this Agreement in full, all Services to be provided under it must cease and all materials that may have been accumulated in performing this Agreement, whether completed or in the process, must be delivered to the City effective 10 days after the date the notice is considered received as provided under Article 11 of this Agreement (if no date is given) or upon the effective date stated in the notice.

(b) After the notice is received, Contractor must restrict its activities, and those of its Subcontractors, to winding down any reports, analyses, or other activities previously begun. No costs incurred after the effective date of the termination are allowed. Payment for any Services actually and satisfactorily performed before the effective date of the termination is on the same basis as set forth in Article 5, but if any compensation is described or provided for on the basis of a period longer than 10 days, then the compensation must be prorated accordingly. No amount of compensation, however, is permitted for anticipated profits on unperformed Services. The City and Contractor must attempt to agree on the amount of compensation to be paid to Contractor, but if not agreed on, the dispute must be settled in accordance with Article 6 of this Agreement. The payment so made to Contractor is in full settlement for all Services satisfactorily performed under this Agreement.

(c) Contractor must include in its contracts with Subcontractors an early termination provision in form and substance equivalent to this early termination provision to prevent claims against the City arising from termination of subcontracts after the early termination. Contractor will not be entitled to make any early termination claims against the City resulting from any Subcontractor's claims against Contractor or the City.

(d) If the City's election to terminate this Agreement for default under Sections 9.1 and 9.2 is determined in a court of competent jurisdiction to have been wrongful, then in that case the termination is to be considered to be an early termination under this Section 9.3.

9.4 Suspension

The City may at any time request that Contractor suspend its Services, or any part of them, by giving 15 days prior written notice to Contractor or upon informal oral, or even no notice, in the event of emergency. No costs incurred after the effective date of such suspension are allowed. Contractor must promptly resume its performance of the Services under the same terms and conditions as stated in this Agreement upon written notice by the Chief Procurement Officer and such equitable extension of time as may be mutually agreed upon by the Chief Procurement Officer and Contractor when necessary for continuation or completion of Services. Any additional costs or expenses actually incurred by Contractor as a result of recommencing the Services must be treated in accordance with the compensation provisions under Article 5 of this Agreement.

No suspension of this Agreement is permitted in the aggregate to exceed a period of 45 days within any one year of this Agreement. If the total number of days of suspension exceeds 45 days, Contractor by written notice to the City may treat the suspension as an early termination of this Agreement under Section 9.3.

9.5 Right to Offset

(a) In connection with Contractor's performance under this Agreement, the City may offset any incremental costs and other damages the City incurs in any or all of the following circumstances:

(i) if the City terminates this Agreement for default or any other reason resulting from Contractor's performance or non-performance;

(ii) if the City exercises any of its remedies under Section 9.2 of this Agreement;

(iii) if the City has any credits due or has made any overpayments under this Agreement.

The City may offset these incremental costs and other damages by use of any payment due for Services completed before the City terminated this Agreement or before the City exercised any remedies. If the amount offset is insufficient to cover those incremental costs and other damages, Contractor is liable for and must promptly remit to the City the balance upon written demand for it. This right to offset is in addition to and not a limitation of any other remedies available to the City.

(b) As provided under 2-92-380 of the Municipal Code, the City may set off from Contractor's compensation under this Agreement an amount equal to the amount of the fines and penalties for each *outstanding parking violation complaint* and the amount of any *debt* owed by Contractor to the City as those italicized terms are defined in the Municipal Code.

(c) In connection with any liquidated or unliquidated claims against Contractor, and without breaching this Agreement, the City may set off a portion of the price or compensation due under this Agreement in an amount equal to the amount of any liquidated or unliquidated claims that the City has against Contractor unrelated to this Agreement. When the City's claims against Contractor are finally adjudicated in a court of competent jurisdiction or otherwise resolved, the City will reimburse Contractor to the extent of the amount the City has offset against this Agreement inconsistently with such determination or resolution.

ARTICLE 10. GENERAL CONDITIONS

10.1 Entire Agreement

(a) General

This Agreement, and the exhibits attached to it and incorporated in it, constitute the entire agreement between the parties and no other terms, conditions, warranties, inducements, considerations, promises or interpretations are implied or impressed upon this Agreement that are not addressed in this Agreement.

(b) No Collateral Agreements

Contractor acknowledges that, except only for those representations, statements or promises contained in this Agreement and any exhibits attached to it and incorporated by reference in it, no representation, statement or promise, oral or in writing, of any kind whatsoever, by the City, its officials, agents or employees, has induced Contractor to enter into this Agreement or has been relied upon by Contractor, including any with reference to: (i) the meaning, correctness, suitability or

completeness of any provisions or requirements of this Agreement; (ii) the nature of the Services to be performed; (iii) the nature, quantity, quality or volume of any materials, equipment, labor and other facilities needed for the performance of this Agreement; (iv) the general conditions which may in any way affect this Agreement or its performance; (v) the compensation provisions of this Agreement; or (vi) any other matters, whether similar to or different from those referred to in (i) through (vi) immediately above, affecting or having any connection with this Agreement, its negotiation, any discussions of its performance or those employed or connected or concerned with it.

(c) **No Omissions**

Contractor acknowledges that Contractor was given ample opportunity and time and was requested by the City to review thoroughly all documents forming this Agreement before signing this Agreement in order that it might request inclusion in this Agreement of any statement, representation, promise or provision that it desired or on that it wished to place reliance. Contractor did so review those documents, and either every such statement, representation, promise or provision has been included in this Agreement or else, if omitted, Contractor relinquishes the benefit of any such omitted statement, representation, promise or provision and is willing to perform this Agreement in its entirety without claiming reliance on it or making any other claim on account of its omission.

10.2 Counterparts

This Agreement is comprised of several identical counterparts, each to be fully signed by the parties and each to be considered an original having identical legal effect.

10.3 Changes, Modifications, and Amendments

No change, modification, or amendment of this Agreement, or any part hereof, is valid unless stipulated in writing and signed by the Mayor, Comptroller, and Chief Procurement Officer of the City. The City incurs no liability for Additional Services without a written amendment to this Agreement under this Section 10.3. This Section, 10.3, does not apply, however, to Agreement extensions governed by section 4.3, Agreement Extension Option.

10.4 Governing Law and Jurisdiction

This Agreement is governed as to performance and interpretation in accordance with the laws of the State of Illinois.

Contractor irrevocably submits itself to the original jurisdiction of those courts located within the County of Cook, State of Illinois, with regard to any controversy arising out of, relating to, or in any way concerning the execution or performance of this

Agreement. Service of process on Contractor may be made, at the option of the City, either by registered or certified mail addressed to the applicable office as provided for in this Agreement, by registered or certified mail addressed to the office actually maintained by Contractor, or by personal delivery on any officer, director, or managing or general agent of Contractor. If any action is brought by Contractor against the City concerning this Agreement, the action must be brought only in those courts located within the County of Cook, State of Illinois.

10.5 Severability

If any provision of this Agreement is held or deemed to be or is in fact invalid, illegal, inoperative or unenforceable as applied in any particular case in any jurisdiction or in all cases because it conflicts with any other provision or provisions of this Agreement or of any constitution, statute, ordinance, rule of law or public policy, or for any other reason, those circumstances do not have the effect of rendering the provision in question invalid, illegal, inoperative or unenforceable in any other case or circumstances, or of rendering any other provision or provisions in this Agreement invalid, illegal, inoperative or unenforceable to any extent whatsoever. The invalidity, illegality, inoperativeness or unenforceability of any one or more phrases, sentences, clauses or sections in this Agreement does not affect the remaining portions of this Agreement or any part of it.

10.6 Assigns

All of the terms and conditions of this Agreement are binding upon and inure to the benefit of the parties and their respective legal representatives, successors and assigns.

10.7 Cooperation

Contractor must at all times cooperate fully with the City and act in the City's best interests. If this Agreement is terminated for any reason, or if it is to expire on its own terms, Contractor must make every effort to ensure an orderly transition to another provider of the Services, if any, orderly demobilization of its own operations in connection with the Services, uninterrupted provision of Services during any transition period and must otherwise comply with the reasonable requests and requirements of the Department in connection with the termination or expiration.

10.8 Waiver

Nothing in this Agreement authorizes the waiver of a requirement or condition contrary to law or ordinance or that would result in or promote the violation of any federal, state or local law or ordinance.

Whenever under this Agreement the City by a proper authority waives Contractor's performance in any respect or waives a requirement or condition to either the City's or Contractor's performance, the waiver so granted, whether express or implied, only applies to the particular instance and is not a waiver forever or for subsequent instances of the performance, requirement or condition. No such waiver is a modification of this Agreement regardless of the number of times the City may have waived the performance, requirement or condition. Such waivers must be provided to Contractor in writing.

10.9 Independent Contractor

(a) This Agreement is not intended to and does not constitute, create, give rise to, or otherwise recognize a joint venture, partnership, corporation or other formal business association or organization of any kind between Contractor and the City. The rights and the obligations of the parties are only those set forth in this Agreement. Contractor must perform under this Agreement as an independent contractor and not as a representative, employee, agent, or partner of the City.

(b) This Agreement is between the City and an independent contractor and, if Contractor is an individual, nothing provided for under this Agreement constitutes or implies an employer-employee relationship such that:

(i) The City will not be liable under or by reason of this Agreement for the payment of any compensation award or damages in connection with the Contractor performing the Services required under this Agreement.

(ii) Contractor is not entitled to membership in any City Pension Fund, Group Medical Insurance Program, Group Dental Program, Group Vision Care, Group Life Insurance Program, Deferred Income Program, vacation, sick leave, extended sick leave, or any other benefits ordinarily provided to individuals employed and paid through the regular payrolls of the City.

(iii) The City is not required to deduct or withhold any taxes, FICA or other deductions from any compensation provided to Contractor.

(c) Shakman Accord

(i) The City is subject to the May 31, 2007 Order entitled Agreed Settlement Order and Accord (the Shakman Accord) and the June 24, 2011 City of Chicago Hiring Plan (the City Hiring Plan) entered in Shakman v. Democratic Organization of Cook County, Case No 69 C 2145 (United State District Court for the Northern District of Illinois). Among other things, the Shakman Accord and the City Hiring Plan prohibit the City from

hiring persons as governmental employees in non-exempt positions on the basis of political reasons or factors.

(ii) Contractor is aware that City policy prohibits City employees from directing any individual to apply for a position with Contractor, either as an employee or as a subcontractor, and from directing Contractor to hire an individual as an employee or as a subcontractor. Accordingly, Contractor must follow its own hiring and contracting procedures, without being influenced by City employees. Any and all personnel provided by Contractor under this Agreement are employees or subcontractors of Contractor, not employees of the City of Chicago. This Agreement is not intended to and does not constitute, create, give rise to, or otherwise recognize an employer-employee relationship of any kind between the City and any personnel provided by Contractor.

(iii) Contractor will not condition, base, or knowingly prejudice or affect any term or aspect of the employment of any personnel provided under this Agreement, or offer employment to any individual to provide services under this Agreement, based upon or because of any political reason or factor, including, without limitation, any individual's political affiliation, membership in a political organization or party, political support or activity, political financial contributions, promises of such political support, activity or financial contributions, or such individual's political sponsorship or recommendation. For purposes of this Agreement, a political organization or party is an identifiable group or entity that has as its primary purpose the support of or opposition to candidates for elected public office. Individual political activities are the activities of individual persons in support of or in opposition to political organizations or parties or candidates for elected public office.

(iv) In the event of any communication to Contractor by a City employee or City official in violation of Section 10.9(c)(ii) above, or advocating a violation of Section 10.9(c)(iii) above, Contractor will, as soon as is reasonably practicable, report such communication to the Hiring Oversight Section of the City's Office of the Inspector General, and also to the head of the relevant City Department utilizing services provided under this Agreement. Contractor will also cooperate with inquiries by IGO Hiring Oversight or the Shakman Monitor's Office related to the contract.

10.10 Electronic Ordering and Invoices

The Contractor shall cooperate in good faith with the City in implementing electronic ordering and invoicing, including but not limited to catalogs, purchase orders,

releases, and invoices. Contractor shall accept electronic purchase orders and releases upon request of the Chief Procurement Officer. Contractor shall provide the City electronic catalogs, copies of invoices and other electronic documents upon request. The electronic ordering and invoice documents shall be in a format specified by the City and transmitted by an electronic means specified by the City. Such electronic means may include, but are not limited to, disks, e-mail, EDI, FTP, web sites, and third party electronic services. The Chief Procurement Officer reserves the right to change the document format and/or the means of transmission upon written notice to the Contractor. Contractor shall ensure that the essential information, as determined by the Chief Procurement Officer, in the electronic document, corresponds to that information submitted by the Contractor in its paper documents. The electronic documents shall be in addition to paper documents required by this contract, however, by written notice to the Contractor, the Chief Procurement Officer may deem any or all of the electronic ordering and invoice documents the official documents and/or eliminate the requirement for paper ordering and invoice documents.

10.11 Participation by Other Local Government Agencies

Other local government agencies may be eligible to participate in this agreement pursuant to the terms and conditions of this Contract if such agencies are authorized, by law or their governing bodies, to execute such purchases, and if such authorization is allowed by the City of Chicago's Chief Procurement Officer, and if such purchases have no net adverse effect on the City of Chicago, and result in no diminished services from the Contractor to the City's user departments pursuant to such purchases. Examples of such Local Government Agencies are: Board of Education, Chicago Park District, City Colleges of Chicago, Chicago Transit Authority, Chicago Housing Authority, Chicago Board of Elections, Metropolitan Pier and Exposition Authority (McCormick Place, Navy Pier), Cook County and the Municipal Courts. Said purchases shall be made upon the issuance of a purchase order directly from the Local Government Agency. The City will not be responsible for payment of any amounts owed by any other Local Government Agencies, and will have no liability for the acts or omissions of any other Local Government Agency.

ARTICLE 11. NOTICES

Notices provided for in this Agreement, unless provided for otherwise in this Agreement, must be given in writing and may be delivered personally or by placing in the United States mail, first class and certified, return receipt requested, with postage prepaid and addressed as follows:

If to the City: Department of _____

_____

_____

Attention: Commissioner

and

Department of Procurement Services
Room 806, City Hall
121 North LaSalle Street
Chicago, Illinois 60602
Attention: Chief Procurement Officer

With Copies to: Department of Law
Room 600, City Hall
121 North LaSalle Street
Chicago, Illinois 60602
Attention: Corporation Counsel

If to Contractor: _____
_____
_____

Attention: _____

Changes in these addresses must be in writing and delivered in accordance with the provisions of this Article 11. Notices delivered by mail are considered received three days after mailing in accordance with this Article 11. Notices delivered personally are considered effective upon receipt. Refusal to accept delivery has the same effect as receipt.

ARTICLE 12. AUTHORITY

Execution of this Agreement by Contractor is authorized by a resolution of its Board of Directors, if a corporation, or similar governing document, and the signature(s) of each person signing on behalf of Contractor have been made with complete and full authority to commit Contractor to all terms and conditions of this Agreement, including each and every representation, certification and warranty contained in it, including the representations, certifications and warranties collectively incorporated by reference in it.

[Signature Pages, Exhibits and Schedules follow.]

CONTRACT SIGNATURE PAGE

Contract No.: _____

Specification No.: 110828

Vendor Name: _____

Total Amount (Value): $_____

Fund Chargeable: _____

_____
(Contractor)

By:_____
Its:_____

Attest:_____

State of _____

County of _____

This instrument was acknowledged before me on this _____ day of _____, 20___ by _____ as President (or other authorized officer) and _____ as Secretary of _____ (Corporation Name).

_____ (Seal)

Notary Public Signature

Commission Expires: _____

CITY OF CHICAGO

_____

Mayor Date

_____

Comptroller Date

_____

Chief Procurement Officer Date

Attachment 7: Special Conditions Regarding Minority and Women Owned Business Enterprise (M/WBE) Commitment.

CITY OF CHICAGO
Department of Procurement Services
Jamie L. Rhee, Chief Procurement Officer
121 North LaSalle Street, Room 403
Chicago, Illinois 60602-1284
Fax: 312-744-3281

SPECIAL CONDITIONS FOR PROFESSIONAL SERVICES MBE & WBE

SPECIAL CONDITIONS REGARDING MINORITY BUSINESS ENTERPRISE COMMITMENT AND WOMEN BUSINESS ENTERPRISE COMMITMENT FOR MBE/WBE PROFESSIONAL SERVICES

I. POLICY AND TERMS

It is the policy of the City of Chicago that Local Businesses certified as Minority Business Enterprises (MBE) and Women Business Enterprises (WBE) in accordance with Section 2-92-420 et seq. of the Municipal Code of Chicago and Regulations Governing Certification of Minority and Women-owned Businesses, and all other Regulations promulgated under the aforementioned sections of the Municipal Code, as well as MBEs and WBEs certified by Cook County, Illinois, shall have full and fair opportunities to participate fully in the performance of this agreement. Therefore, the contractor shall not discriminate against any person or business on the basis of race, color, sex, gender identity, age, religion, disability, national origin, ancestry, sexual orientation, marital status, parental status, military discharge status or source of income, and shall take affirmative action to ensure that MBEs and WBEs shall have full and fair opportunities to compete for and perform subcontracts for supplies or services.

Pursuant to Section 2-92-430 of the Municipal Code of Chicago, the Chief Procurement Officer has established a goal of awarding not less than 25% of the annual dollar value of all non-construction contracts to certified MBEs and 5% of the annual dollar value of all non-construction contracts to certified WBEs.

Accordingly, the Contractor commits to make Good Faith Efforts to expend at least the following percentages of the total contract price (inclusive of any and all modifications and amendments), if awarded, for contract participation by MBEs and WBEs:

MBE Contract Goal: 22%
WBE Contract Goal: 5%

The commitment is met by the contractor's status as an MBE or WBE, or by a joint venture with one or more certified MBEs or WBEs that will perform work on the project, or by subcontracting a portion of the work to one or more MBEs or WBEs, or by the purchase of materials used in the performance of the contract from one or more MBEs or WBEs, or by the indirect participation of MBEs or WBEs in other aspects of the contractor's business (but no dollar of such indirect MBE or WBE participation shall be credited more than once against a contractor's MBE or WBE commitment with respect to all government contracts of such contractor), or by any combination of the foregoing.

Note: MBE/WBE participation goals are separate and those businesses certified with the City of Chicago as both MBE and WBE may only be listed on a bidder's compliance plan as either a MBE or a WBE, but not both to demonstrate compliance with the contract goals.

As noted above, the contractor may meet all or part of this commitment by contracting with MBEs or WBEs for the provision of goods or services not directly related to the performance of this contract. However, in determining the manner of MBE/WBE participation, the contractor shall first consider involvement of MBEs/WBEs as joint venture partners, subcontractors, and suppliers of goods and services directly related to the performance of this contract. In appropriate cases, the Chief Procurement Officer will require the contractor to demonstrate the specific efforts undertaken to involve MBEs and WBEs in direct participation in the performance of this contract.

The contractor also may with prior approval of the Chief Procurement Officer or designee, meet all, or part, of this commitment through credits received pursuant to Section 2-92-530 of the Municipal Code of Chicago for the voluntary use of MBEs or WBEs in private sector projects.

II. DEFINITIONS

a. "Area of Specialty" means the description of a MBEs or WBE firm's business which has been determined by the Chief Procurement Officer to be most reflective of the MBE or WBE firm's claimed specialty or expertise. Each MBE and WBE letter of certification contains a description of the firm's Area of Specialty. This information is also contained in the Directory (defined below). Credit towards this Contract's MBE and WBE participation goals shall be limited to the participation of firms performing within their Area of Specialty.

   NOTICE: The City of Chicago does not make any representation concerning the ability of any MBE/WBE to perform work within their Area of Specialty. It is the responsibility of all contractors to determine the capability and capacity of MBEs/WBEs to satisfactorily perform the work proposed.

b. "B.E.P.D." means an entity certified as a Business enterprise owned or operated by people with disabilities as defined in MCC 2-92-586.

c. "Bid" means a bid, proposal, or submittal detailing a description of the services or work to be provided by the contractor in response to a bid solicitation, request for proposal, request for qualification of task order request (issued in accordance with the Master Consulting Agreement) that issued by the City.

d. "Bidder" means any person or business entity that submits a bid, proposal, qualification or submittal that seeks to enter into a contract with the City, and includes all partners, affiliates and joint ventures of such person or entity.

e. "Broker" means a person or entity that fills orders by purchasing or receiving supplies from a third party supplier rather than out of its own existing inventory and provides no commercially useful function other than acting as a conduit between his or her supplier and his or her customer.

f. "Chief Procurement Officer" or "CPO" means the Chief Procurement Officer of the City of Chicago or his or her designee.

g. "Commercially Useful Function" means responsibility for the execution of a distinct element of the work of the contract, which is carried out by actually performing, managing, and supervising the work involved, evidencing the responsibilities and risks of a business owner such as negotiating the terms of (sub)contracts, taking on a financial risk commensurate with the contract or its subcontract, responsibility for acquiring the appropriate lines of credit and/or loans, or fulfilling responsibilities as a joint venture partner as described in the joint venture agreement.

h. "Contract Specific Goals" means the subcontracting goals for MBE and WBE participation established for a particular contract.

i. "Contractor" means any person or business entity that has entered into a contract with the City as described herein, and includes all partners, affiliates, and joint ventures of such person or entity.

j. "Direct Participation" the total value of payments made to MBE or WBE firms for work that is completed in their Area of Specialty directly related to the performance of the subject matter of the Contract will count as Direct Participation toward the Contract Specific Goals.

k. "Directory" means the Directory of Certified "Minority Business Enterprises" and "Women Business Enterprises" maintained and published by the City of Chicago. The Directory identifies firms that have been certified as MBEs and WBEs, and includes both the date of their last certification and the area of specialty in which they have been certified. Contractors are responsible for verifying the current certification status of all proposed MBE, and WBE firms.

l. "Good Faith Efforts" means actions undertaken by a bidder or contractor to achieve a Contract Specific Goal that the CPO or his or her designee has determined, by their scope, intensity, and appropriateness to the objective, can reasonably be expected to fulfill the program's requirements.

m. "Indirect Participation" refers to the value of payments made to MBE or WBE firms for work that is done in their Area of Specialty related to other aspects of the Contractor's business. (Note: no dollar of such indirect MBE or WBE participation shall be credited more than once against a contractor's MBE or WBE commitment with respect to all government contracts held by that contractor.)

n. "Joint venture" means an association of a MBE or WBE firm and one or more other firms to carry out a single, for-profit business enterprise, for which each joint venture partner contributes property, capital, efforts, skills and knowledge, and in which the MBE or WBE is responsible for a distinct, clearly defined portion of the work of the contract and whose share in the capital contribution, control, management, risks, and profits of the joint venture are commensurate with its ownership interest.

o. "Minority Business Enterprise" or "MBE" means a firm awarded certification as a minority owned and controlled business in accordance with City Ordinances and

Regulations as well as a firm awarded certification as a minority owned and controlled business by Cook County, Illinois.

p. "Municipal Code of Chicago" or "MCC" means the Municipal Code of the City of Chicago.

q. "Supplier" or "Distributor" refers to a company that owns, operates, or maintains a store, warehouse or other establishment in which materials, supplies, articles or equipment are bought, kept in stock and regularly sold or leased to the public in the usual course of business. A regular distributor or supplier is a firm that owns, operates, or maintains a store, warehouse, or other establishment in which the materials or supplies required for performance of the Contract are bought, kept in stock, and regularly sold to the public in the usual course of business. To be a regular distributor the firm must engage in, as its principal business and in its own name, the purchase, and sale of the products in question. A regular distributor in such bulk items as steel, cement, gravel, stone, and petroleum products need not keep such products in stock if it owns or operates distribution equipment.

r. "Women Business Enterprise" or "WBE" means a firm awarded certification as a women owned and controlled business in accordance with City Ordinances and Regulations as well as a firm awarded certification as a women owned business by Cook County, Illinois.

III. Joint Ventures

The formation of joint ventures to provide MBEs and WBEs with capacity and experience at the prime contracting level, and thereby meet the contract's MBE/WBE participation goals (in whole or in part) is encouraged. A joint venture may consist of any combination of MBEs, WBEs, and non-certified firms as long as one member is an MBE or WBE.

A. The joint venture may be eligible for credit towards the contract's MBE/WBE participation goals only if:

1. The MBE or WBE joint venture partner's share in the capital contribution, control, management, risks and profits of the joint venture is equal to its ownership interest;

2. The MBE or WBE joint venture partner is responsible for a distinct, clearly defined portion of the requirements of the contract for which it is at risk;

3. Each joint venture partner executes the bid to the City; and

4. The joint venture partners have entered into a written agreement specifying the terms and conditions of the relationship between the partners and their relationship and responsibilities to the contract, and all such terms and conditions are in accordance with the conditions set forth in Items 1, 2, and 3 above in this Paragraph A.

B. The Chief Procurement Officer shall evaluate the proposed joint venture agreement,

the Schedule B submitted on behalf of the proposed joint venture, and all related documents to determine whether these requirements have been satisfied. The Chief Procurement Officer shall also consider the record of the joint venture partners on other City of Chicago contracts. The decision of the Chief Procurement Officer regarding the eligibility of the joint venture for credit towards meeting the contract's MBE/WBE participation goals, and the portion of those goals met by the joint venture, shall be final.

The joint venture may receive MBE or WBE credit for work performed by the MBE or WBE joint venture partner(s) equal to the value of work performed by the MBE or WBE with its own forces for a distinct, clearly defined portion of the work.

Additionally, if employees of the joint venture entity itself (as opposed to employees of the MBE or WBE partner) perform the work then the value of the work may be counted toward the contract's MBE/WBE participation goals at a rate equal to the MBE or WBE firm's percentage of participation in the joint venture as described in Schedule B.

The Chief Procurement Officer may also count the dollar value of work subcontracted to other MBEs and WBEs. Work performed by the forces of a non-certified joint venture partner shall not be counted toward the contract's MBE/WBE participation goals.

C. Schedule B: MBE/WBE Affidavit of Joint Venture

Where the bidder's Compliance Plan includes the participation of any MBE or WBE as a joint venture partner, the bidder must submit with its proposal a Schedule B and the proposed joint venture agreement. These documents must both clearly evidence that the MBE or WBE joint venture partner(s) will be responsible for a clearly defined portion of the work to be performed, and that the MBE's or WBE's responsibilities and risks are proportionate to its ownership percentage. The proposed joint venture agreement must include specific details related to:

1. The parties' contributions of capital, personnel, and equipment and share of the costs of insurance and bonding;

2. Work items to be performed by the MBE's or WBE's own forces and/or work to be performed by employees of the newly formed joint venture entity;

3. Work items to be performed under the supervision of the MBE or WBE joint venture partner; and

4. The MBE's or WBE's commitment of management, supervisory, and operative personnel to the performance of the contract.

Notice: Vague, general descriptions of the responsibilities of the MBE or WBE joint venture partner do not provide any basis for awarding credit. For example, descriptions such as "participate in the budgeting process," "assist with hiring," or "work with managers to improve customer service" do not identify distinct, clearly defined portions of the work. Roles assigned should require activities that are performed on a regular,

recurring basis rather than as needed. The roles must also be pertinent to the nature of the business for which credit is being sought. For instance, if the scope of work required by the City entails the delivery of goods or services to various sites in the City, stating that the MBE or WBE joint venture partner will be responsible for the performance of all routine maintenance and all repairs required to the vehicles used to deliver such goods or services is pertinent to the nature of the business for which credit is being sought.

Notice: The City requires that, whenever a joint venture is proposed as the prime Contractor, each joint venture partner must separately sign the proposal to the City, in the pages captioned TO BE EXECUTED BY A CORPORATION; TO BE EXECUTED BY A PARTNERSHIP; and/or TO BE EXECUTED BY A SOLE PROPRIETOR, as applicable.

IV. COUNTING MBE/WBE PARTICIPATION TOWARD THE CONTRACT GOALS

Refer to this section when preparing the MBE/WBE compliance plan and completing Schedule D-1 for guidance on what value of the participation by MBEs and WBEs will be counted toward the stated Contract Specific Goals. The "Percent Amount of Participation" depends on whether and with whom a MBE or WBE subcontracts out any portion of its work and other factors.

Firms that are certified as both MBE and WBE may only be listed on a bidder's compliance plan as either a MBE or a WBE to demonstrate compliance with the Contract Specific Goals. For example, a firm certified as both a MBE and a WBE may only listed on the bidder's compliance plan under one of the categories, but not both. **Only payments made to MBE and WBE firms that meet BOTH the Commercially Useful Function and Area of Specialty requirements above will be counted toward the Contract Specific Goals.**

A. Only expenditures to firms that perform a **Commercially Useful Function** as defined above may count toward the Contract Specific Goals.
   1. The CPO will determine whether a firm is performing a commercially useful function by evaluating the amount of work subcontracted, whether the amount the firm is to be paid under the contract is commensurate with the work it is actually performing and the credit claimed for its performance of the work, industry practices, and other relevant factors.
   2. A MBE or WBE does not perform a commercially useful function if its participation is only required to receive payments in order to obtain the appearance of MBE or WBE participation. The CPO may examine similar commercial transactions, particularly those in which MBEs or WBEs do not participate, to determine whether non MBE and non WBE firms perform the same function in the marketplace to make a determination.

B. Only the value of the dollars paid to the MBE or WBE firm for work that it performs in its **Area of Specialty** in which it is certified counts toward the Contract Specific Goals.

C. If the MBE or WBE performs the work itself:
   1. 100% of the value of work actually performed by the MBE's or WBE's own forces shall be counted toward the Contract Specific Goals, including the cost of supplies and materials purchased or equipment leased by the MBE or WBE from

third parties or second tier subcontractors in order to perform its (sub)contract with its own forces (except supplies and equipment the MBE or WBE subcontractor purchases or leases from the prime contractor or its affiliate). **0% of the value of work at the project site that a MBE or WBE subcontracts to a non-certified firm counts toward the Contract Specific Goals**

D. If the MBE or WBE is a manufacturer:
   1. 100% of expenditures to a MBE or WBE manufacturer for items needed for the Contract shall be counted toward the Contract Specific Goals. A manufacturer is a firm that operates or maintains a factory or establishment that produces on the premises the materials or supplies obtained by the bidder or contractor.

E. If the MBE or WBE is a distributor or supplier:
   1. 60% of expenditures for materials and supplies purchased from a MBE or WBE that is certified as a regular dealer or supplier shall be counted toward the Contract Specific Goals.

F. If the MBE or WBE is a broker:
   1. 0% of expenditures paid to brokers will be counted toward the Contract Specific Goals.
   2. As defined above, Brokers provide no commercially useful function.

G. If the MBE or WBE is a member of the joint venture contractor/bidder:
   1. A joint venture may count the portion of the total dollar value of the contract equal to the distinct, clearly defined portion of the work of the contract that the MBE or WBE performs with its own forces toward the Contract Specific Goals; or
   2. If employees of this distinct joint venture entity perform the work then the value of the work may be counted toward the Contract Specific Goals at a rate equal to the MBE or WBE firm's percentage of participation in the joint venture as described in Schedule B.
   3. A joint venture may also count the dollar value of work subcontracted to other MBEs and WBEs, however, work subcontracted out to non-certified firms may not be counted.

H. If the MBE or WBE subcontracts out any of its work:
   1. 100% of the value of the work subcontracted to other MBEs or WBEs performing work in its Area of Specialty may be counted toward the Contract Specific Goals.
   2. 0% of the value of work that a MBE or WBE subcontracts to a non-certified firm counts toward the Contract Specific Goals (except as allowed by C.1. above).
   3. The fees or commissions charged for providing a *bona fide* service, such as professional, technical, consulting or managerial services or for providing bonds or insurance and assistance in the procurement of essential personnel, facilities, equipment, materials or supplies required for performance of the Contract, may be counted toward the Contract Specific Goals, provided that the fee or commission is determined by the Chief Procurement Officer to be reasonable and not excessive as compared with fees customarily allowed for similar services.
   4. The fees charged for delivery of materials and supplies required on a job site (but not the cost of the materials and supplies themselves) when the hauler, trucker, or delivery service is not also the manufacturer of or a regular dealer in the materials and supplies, provided that the fee is determined by the Chief

Procurement Officer to be reasonable and not excessive as compared with fees customarily allowed for similar services.

5. The fees or commissions charged for providing any bonds or insurance, but not the cost of the premium itself, specifically required for the performance of the Contract, provided that the fee or commission is determined by the Chief Procurement Officer to be reasonable and not excessive as compared with fees customarily allowed for similar services.

V. REGULATIONS GOVERNING REDUCTIONS TO OR WAIVER OF MBE/WBE GOALS

The following Regulations set forth the standards to be used in determining whether or not a reduction or waivers of the MBE/WBE commitment goals of a particular contract are appropriate. If a bidder determines that it is unable to meet the MBE and/or WBE goal percentage on a City of Chicago contract, a written request for the reduction or waiver of the commitment must be included in the bid or proposal.

The written request for reduction or waiver from the commitment must be in the form of a signed petition for grant of relief from the MBE/WBE percentages submitted on the bidder's letterhead, and must demonstrate that all required efforts as set forth in this document were taken to secure eligible Minority and Women Business Enterprises to meet the commitments. The Chief Procurement Officer or designee shall determine whether the request for the reduction or waiver will be granted.

All bidders will be considered responsive to the terms and conditions of these Regulations if, at the time of bid, it submits a waiver request and all supporting documentation that adequately addresses the conditions for waiver of MBE/WBE goals, including proof of notification to assist agencies except:
1) Bidders responding to Request for Proposals (RFPs) who have been identified as a sort listed candidate and/or a prospective awardee will be given a designated time allowance, but no more than fourteen (14) calendar days to submit to the Department of Procurement Services complete documentation that adequately addresses the conditions for waiver described herein; and
2) Bidders responding to Request for Information and or Qualifications (RFI/RFQs) deemed by the Chief Procurement Officer or authorized designee to be the most responsive and responsible shall submit documentation that adequately addresses the conditions for waiver described herein during negotiations.

Failure to submit documentation sufficient to support the waiver request will cause the bid/proposal to be found non-responsive by the Chief Procurement Officer, and the bid/proposal will be rejected. In such cases the remedies to be taken by the Chief Procurement Officer, in his or her discretion, may include, but are not limited to, forfeiture of bid deposit; negotiating with the next lowest bidder; or re-advertising the bid/proposal. All bidders must submit all required documents at the time of bid opening to expedite the contract award.

A. Direct/Indirect Participation

Each of the following elements must be present in order to determine whether or not such a reduction or waiver is appropriate.

1. The bidder has documented the unsuccessful solicitation for either

subcontractors or joint venture partners of at least 50% (or at least five when there are more than eleven certified firms in the commodity area) of the appropriate certified MBE/WBE firms to perform any direct or indirect work identified or related to the advertised bid/proposal.. Documentation must include but is not necessarily limited to:

a. A detailed statement of efforts to identify and select portions of work identified in the bid solicitation for subcontracting to MBEs and WBEs;

b. A listing of all MBEs and WBEs contacted for the bid solicitation that includes:

   i. Name, address, email and telephone number of MBE/WBE firms solicited;
   ii. Date and time of contact;
   iii. Person contacted;
   iv. Method of contact (letter, telephone call, facsimile, email, etc.).

c. Copies of letters or any other evidence of mailing that substantiates outreach to MBE/WBE vendors that includes:
   i. Project identification and location;
   ii. Classification/commodity of work items for which quotations were sought;
   iii. Date, item, and location for acceptance of subcontractor bids;
   iv. Detailed statements summarizing direct negotiations with appropriate MBEs and WBEs for specific portions of the work and indicating why negotiations were not successful;
   v. Affirmation that Good Faith Efforts have been demonstrated by: choosing subcontracting opportunities likely to achieve MBE/WBE goals; not imposing any limiting conditions which were not mandatory for all subcontractors; providing notice of subcontracting opportunities to M/WBE firms and assist agencies at least five (5) business days in advance of the initial bid due date.

OR

2. Subcontractor participation will be deemed excessively costly when the MBE/WBE subcontractor proposal exceeds the average price quoted by more than twenty percent (20%). In order to establish that a subcontractor's quote is excessively costly, the bidder must provide the following information:

   a. A detailed statement of the work identified for MBE/WBE participation for which the bidder asserts the MBE/WBE quote(s) were excessively costly (in excess of 20% higher).
   b. A listing of all potential subcontractors contacted for a quotation on that work item;
   c. Prices quoted for the subcontract in question by all such potential subcontractors for that work item.

3. Other documentation that demonstrates to the satisfaction of the Chief Procurement Officer that the MBE/WBE proposals are excessively costly, even though not in excess of 20% higher than the average price quoted. This determination will be based on factors that include, but are not limited to the

following:

a. The City's estimate for the work under a specific subcontract;
b. The bidder's own estimate for the work under the subcontract;
c. An average of the bona fide prices quoted for the subcontract;
d. Demonstrated increase in other contract costs as a result of subcontracting to the M/WBE or other firm.

B. Assist Agency Participation

Every waiver and/or reduction request must include evidence that the bidder/contractor has provided timely notice of the need for subcontractors to an appropriate association/assist agency representative of the MBE/WBE business community shown in Attachment A. This notice must be given at least five (5) business days in advance of the initial bid due date.

The notice requirement of this Section will be satisfied if a bidder contacts at least one of the associations on Attachment A when the prime contractor seeks a waiver or reduction in the utilization goals. Attachment B provides the letter format that a prime contractor may use. Proof of notification prior to bid submittal (e.g. certified mail receipt or facsimile transmittal receipt) will be required for any bid/proposal submitted to be deemed responsive on the date of bid opening. If deemed appropriate, the Contract Compliance Officer may contact the assist agency for verification of notification.

C. Impracticability

1. If the Chief Procurement Officer determines that a lesser MBE and/or WBE percentage standard is appropriate with respect to a particular contract subject to competitive bidding prior to the bid solicitations for such contract, bid specifications shall include a statement of such revised standard.

2. The requirements set forth in these Regulations shall not apply where the Chief Procurement Officer determines prior to the bid solicitations that MBE/WBE subcontractor participation is impracticable.

This may occur whenever the Chief Procurement Officer determines that for reasons of time, need, industry practices, or standards not previously known by the Chief Procurement Officer, or such other extreme circumstances as may be deemed appropriate, such a Waiver is in the best interests of the City. This determination may be made in connection with a particular contract, whether before the contract is let for bid, during the bid or award process, before or during negotiation of the contract, or during the performance of the contract.

For all notifications required to be made by bidders in situations where the Chief Procurement Officer has determined that time is of the essence, documented telephone contact may be substituted for letter contact.

VI. PROCEDURE TO DETERMINE BID COMPLIANCE

A bid may be rejected as non-responsive if it fails to submit one or more of the following with its bid demonstrating its Good Faith Efforts to meet the Contract Specific Goals by reaching out to MBEs and WBEs to perform work on the contract: 1) An MBE/WBE

compliance plan demonstrating how the bidder plans to meet the Contract Specific Goals; and/or 2) a request for reduction or waiver of the Contract Specific Goals in accordance with Section 2-92-450 of the MCC.

Only compliance plans utilizing MBE and WBE firms that meet BOTH the Commercially Useful Function and Area of Specialty requirements will be counted toward the Contract Specific Goals.

The following Schedules and described documents constitute the bidder's MBE/WBE proposal, and must be submitted in accordance with the guidelines stated:

A. Schedule C-1: Letter of Intent from MBE/WBE to Perform as Subcontractor, Supplier, and/or Consultant

The bidder must submit the appropriate Schedule C-1 with the bid for each MBE and WBE included on the Schedule D-1. Suppliers must submit the Schedule C-1 for Suppliers, first tier subcontractors must submit a Schedule C-1 for Subcontractors to the Prime Contractor, and second or lower tier subcontractors must submit a Schedule C-1 for second tier Subcontractors. The City encourages subcontractors to utilize the electronic fillable format Schedule C-1, which is available at the Department of Procurement Services website, http://cityofchicago.org/forms. Each Schedule C-1 must accurately detail the work to be performed by the MBE or WBE and the agreed upon rates/prices. Each Schedule C-1 must also include a separate sheet as an attachment on which the MBE or WBE fully describes its proposed scope of work, including a description of the commercially useful function being performed by the MBE or WBE in its Area of Specialty. If a facsimile copy of the Schedule C has been submitted with the bid, an executed original Schedule C must be submitted by the bidder for each MBE and WBE included on the Schedule D-1 within five (5) business days after the date of the bid opening.

Failure to submit a completed Schedule C-1 in accordance with this section shall entitle the City to deem the bid/proposal non-responsive and therefore reject the bid/proposal.

B. Letters of Certification.

A copy of each proposed MBE/WBE firm's current Letter of Certification from the City of Chicago or Cook County, Illinois, must be submitted with the bid/proposal. All Letters of Certification issued by the City of Chicago and Cook County include a statement of the MBE/WBE firm's Area of Specialty. The MBE/WBE firm's scope of work, as detailed by their Schedule C-1, must conform to their stated Area of Specialty.

C. Joint Venture Agreements.

If the bidder's MBE/WBE proposal includes the participation of an MBE/WBE as joint venture on any tier (either as the bidder/contractor or as a subcontractor), the bidder must provide a copy of the joint venture agreement and a Schedule B along with all other requirements listed in Section III above. In order to demonstrate the MBE/WBE partner's share in the ownership, control, management responsibilities, risks and profits of the joint venture, the proposed joint venture agreement must include specific details related to: (1) contributions of capital and equipment; (2) work responsibilities or other performance to be undertaken by the MBE/WBE; and (3) the commitment of

management, supervisory and operative personnel employed by the MBE/WBE to be dedicated to the performance of the contract. The joint venture agreement must also clearly define each partner's authority to contractually obligate the joint venture and each partner's authority to expend joint venture funds (e.g., check signing authority).

D. Schedule D-1: Affidavit of MBE/WBE Goal Implementation Plan

Bidders must submit, together with the bid, a completed Schedule D-1 committing them to the utilization of each listed MBE/WBE firm. The City encourages bidders to utilize the electronic fillable format Schedule D-1, which is available at the Department of Procurement Services website, http://cityofchicago.org/forms. Except in cases where the bidder has submitted a request for a complete waiver of or variance from the MBE/WBE commitment in accordance with Section V herein, the bidder must commit to the expenditure of a specific dollar amount of participation by each MBE/WBE firm included on their Schedule D-1. The total dollar commitment to proposed MBEs must at least equal the MBE goal, and the total dollar commitment to proposed WBEs must at least equal the WBE goal. Bidders are responsible for calculating the dollar equivalent of the MBE and WBE goals as percentages of their total base bids or in the case of Term Agreements, depends upon requirements agreements and blanket agreements, as percentages of the total estimated usage. All commitments made by the bidder's Schedule D-1 must conform to those presented in the submitted Schedule C-1. If Schedule C-1 is submitted after the opening, the bidder may submit a revised Schedule D-1 (executed and notarized to conform with the Schedules C-1). Bidders shall not be permitted to add MBEs or WBEs after bid opening to meet the Contract Specific Goals, however, contractors are encouraged to add additional MBE/WBE vendors to their approved compliance plan during the performance of the contract when additional opportunities for participation are identified. Except in cases where substantial and documented justification is provided, bidders will not be allowed to reduce the dollar commitment made to any MBE or WBE in order to achieve conformity between the Schedules C-1 and D-1.

All commitments for joint venture agreements must be delineated in the Schedule B.

VII. REPORTING REQUIREMENTS DURING THE TERM OF THE CONTRACT

A. The Contractor will, not later than thirty (30) calendar days from the award of a contract by the City, execute formal contracts or purchase orders with the MBEs and WBEs included in their approved MBE/WBE Utilization Plan. These written agreements will be made available to the Chief Procurement Officer upon request.

B. The contractor will be responsible for reporting payments to all subcontractors on a monthly basis in the form of an electronic audit. Upon the first payment issued by the City of Chicago to the contractor for services performed, on the first day of each month and every month thereafter, email and or fax audit notifications will be sent out to the contractor with instructions to report payments that have been made in the prior month to each subcontractor. The reporting of payments to all subcontractors must be entered into the Certification and Compliance Monitoring System (C2), or whatever reporting system is currently in place, on or before the fifteenth (15th) day of each month.

C. Once the prime contractor has reported payments made to each MBE and WBE, including zero dollar amount payments, the MBE and WBE will receive an email and or

fax notification requesting them to log into the system and confirm payments received. All monthly confirmations must be reported on or before the 20th day of each month. Contractor and subcontractor reporting to the C2 system must be completed by the 25th of each month or payments may be withheld.

D. All subcontract agreements between the contractor and MBE/WBE firms or any first tier non-certified firm and lower tier MBE/WBE firms must contain language requiring the MBE/WBE to respond to email and/or fax notifications from the City of Chicago requiring them to report payments received for the prime or the non-certified firm.

Access to the Certification and Compliance Monitoring System (C2), which is a web based reporting system, can be found at: https://chicago.mwdbe.com

E. The Chief Procurement Officer or any party designated by the Chief Procurement Officer, shall have access to the contractor's books and records, including without limitation payroll records, tax returns and records and books of account, to determine the contractor's compliance with its commitment to MBE and WBE participation and the status of any MBE or WBE performing any portion of the contract. This provision shall be in addition to, and not a substitute for, any other provision allowing inspection of the contractor's records by any officer or official of the City for any purpose.

F. The contractor shall maintain records of all relevant data with respect to the utilization of MBEs and WBEs, retaining these records for a period of at least five years after final acceptance of the work. Full access to these records shall be granted to City, federal or state authorities or other authorized persons.

VIII. CHANGES TO COMPLIANCE PLAN

A. No changes to the Compliance Plan or contractual MBE and WBE commitments or substitution of MBE or WBE subcontractors may be made without the prior written approval of the Contract Compliance Officer. Unauthorized changes or substitutions, including performing the work designated for a subcontractor with the contractor's own forces, shall be a violation of these Special Conditions and a breach of the contract with the City, and may cause termination of the executed Contract for breach, and/or subject the bidder or contractor to contract remedies or other sanctions. The facts supporting the request for changes must not have been known nor reasonably could have been known by the parties prior to entering into the subcontract. Bid shopping is prohibited. The bidder or contractor must negotiate with the subcontractor to resolve the problem. If requested by either party, the Department of Procurement Services shall facilitate such a meeting. Where there has been a mistake or disagreement about the scope of work, the MBE or WBE can be substituted only where an agreement cannot be reached for a reasonable price for the correct scope of work.

B. Substitutions of a MBE or WBE subcontractor shall be permitted only on the following basis:

1. Unavailability after receipt of reasonable notice to proceed;
2. Failure of performance;
3. Financial incapacity;
4. Refusal by the subcontractor to honor the bid or proposal price or scope;
5. Mistake of fact or law about the elements of the scope of work of a solicitation where

a reasonable price cannot be agreed;
6. Failure of the subcontractor to meet insurance, licensing, or bonding requirements;
7. The subcontractor's withdrawal of its bid or proposal;
8. Subcontractor provided false information; or
9. De-certification the subcontractor as a MBE or WBE (graduation from the MBE/WBE program does not constitute de-certification).

C. If it becomes necessary to substitute a MBE or WBE or otherwise change the Compliance Plan, the procedure will be as follows:

1. The bidder or contractor must notify the Contract Compliance Officer and Chief Procurement Officer in writing of the request to substitute a MBE or WBE or otherwise change the Compliance Plan. The request must state specific reasons for the substitution or change. A letter from the MBE or WBE to be substituted or affected by the change stating that it cannot perform on the contract or that it agrees with the change in its cope of work must be submitted with the request.
2. The City will approve or deny a request for substitution or other change within 15 business days of receipt of the written request.
3. Where the bidder or contractor has established the basis for the substitution to the satisfaction of the Chief Procurement Officer, it must make Good Faith Efforts to meet the Contract Specific Goal by substituting a MBE or WBE subcontractor. Documentation of a replacement MBE or WBE, or of Good Faith Efforts, must meet the requirements in section V. If the MBE or WBE Contract Specific Goal cannot be reached and Good Faith Efforts have been made, as determined by the Chief Procurement Officer, the bidder or contractor may substitute with a non-MBE or non-WBE.
4. If a bidder or contractor plans to hire a subcontractor for any scope of work that was not previously disclosed in the Compliance Plan, the bidder or contractor must obtain the approval of the Chief Procurement Officer to modify the Compliance Plan and must make Good Faith Efforts to ensure that MBEs or WBEs have a fair opportunity to bid on the new scope of work.
5. A new subcontract must be executed and submitted to the Contract Compliance Officer within five business days of the bidder's or contractor's receipt of City approval for the substitution or other change.

D. The City shall not be required to approve extra payment for escalated costs incurred by the contractor when a substitution of subcontractors becomes necessary to comply with MBE/WBE contract requirements.

IX. NON-COMPLIANCE AND DAMAGES

A. Without limitation, the following shall constitute a material breach of this contract and entitle the City to declare a default, terminate the contract, and exercise those remedies provided for in the contract at law or in equity: (1) failure to demonstrate good faith efforts to comply with MBE or WBE participation requirements; and (2) disqualification as a MBE or WBE of the contractor or any joint venture partner, subcontractor or supplier if its status as an MBE or WBE was a factor in the award of the contract and such status was misrepresented by the contractor.

B. Payments due to the contractor may be withheld until corrective action is taken.

C. Pursuant to 2-92-445, remedies or sanctions may include a penalty in the amount of the discrepancy between the amount of the MBE/WBE participation commitment and the achieved amount of MBE/WBE participation, disqualification from contracting or subcontracting on additional City contracts for up to three years. The consequences provided herein shall be in addition to any other criminal or civil liability to which such entities may be subject.

D. The contractor shall have the right to protest the determination of non-compliance and the imposition of any penalty by the Chief Procurement Officer pursuant to 2-92-445 of the Municipal Code of the City of Chicago, within 15 business days of the determination.

X. Arbitration

A. In the event a contractor has not complied with the contractual MBE/WBE percentages in its Schedule D, underutilization of MBEs/WBEs shall entitle the affected MBE/WBE to recover from the contractor damages suffered by such entity as a result of being underutilized; provided, however, that this provision shall not apply to the extent such underutilization occurs pursuant to a waiver or substitution approved by the City. The Ordinance and contracts subject thereto provide that any disputes between the contractor and such affected MBEs/WBEs regarding damages shall be resolved by binding arbitration before an independent arbitrator other than the City, with reasonable expenses, including attorney's fees, being recoverable by a prevailing MBE/WBE in accordance with these regulations. This provision is intended for the benefit of any MBE/WBE affected by underutilization and grants such entity specific third party beneficiary rights. Any rights conferred by this regulation are non-waivable and take precedence over any agreement to the contrary, including but not limited to those contained in a subcontract, suborder, or communicated orally between a contractor and a MBE/WBE.

B. An MBE/WBE desiring to arbitrate shall contact the contractor in writing to initiate the arbitrative process. Except as otherwise agreed to in writing by the affected parties subject to the limitation contained in the last sentence of the previous paragraph, within ten (10) calendar days of the contractor receiving notification of the intent to arbitrate from the MBE/WBE the above-described disputes shall be arbitrated in accordance with the Commercial Arbitration Rules of the American Arbitration Association (AAA), a not-for-profit agency, with an office at 225 North Michigan Avenue, Suite 2527, Chicago, Illinois 60601-7601 [Phone: (312) 616-6560; Fax: (312) 819-0404]. All such arbitrations shall be initiated by the MBE/WBE filing a demand for arbitration with the AAA; shall be conducted by the AAA; and held in Chicago, Illinois.

C. All arbitration fees are to be paid *pro rata* by the parties, however, that the arbitrator is authorized to award reasonable expenses, including attorney's and arbitrator fees, as damages to a prevailing MBE/WBE.

D. The MBE/WBE must send the City a copy of the Demand for Arbitration within ten (10) calendar days after it is filed with the AAA. The MBE/WBE also must send the City a copy of the decision of the arbitrator within ten (10) calendar days of receiving such decision. Judgment upon the award rendered by the arbitrator may be entered in any court of competent jurisdiction.

XI Equal Employment Opportunity

Compliance with MBE and WBE requirements will not diminish or supplant equal employment opportunity and civil rights provisions as required by law related to bidder or contractor and subcontractor obligations.

ATTACHMENT A – ASSIST AGENCY

CITY OF CHICAGO
Department of Procurement Services
Assist Agencies

Alliance of Business Leaders & Entrepreneurs (ABLE)
150 N. Michigan Ave. Suite 2800
Chicago, IL 60601
Phone: (312) 624-7733
Fax: (312) 624-7734
Web: www.ablechicago.com

Alliance of Minority and Female Contractors
c/o Federation of Women Contractors
5650 S. Archer Avenue
Chicago, IL 60638
Phone: (312) 360-1122
Fax: (312) 360-0239

American Brotherhood of Contractors Business Development Center
11509 S. Elizabeth
Chicago, IL 60643
Phone: (773) 928-2225
Fax: (773)928-2209
Web: www.american-brotherhood.org

Asian American Institute
4753 N. Broadway St. Suite 904
Chicago, IL 60640
Phone: (773) 271-0899
Fax: (773) 271-1982
Web: www.aaichicago.org

Association of Asian Construction Enterprises
333 N. Ogden Avenue
Chicago, IL 60607
Phone: (847) 525-9693
Email: nakmancorp@aol.com

Black Contractors United
400 W. 76th Street, Suite 200
Chicago, IL 60620
Phone: (773 483-4000
Fax: (773) 483-4150
Web: www.blackcontractorsunited.com

Chatham Business Association Small Business Development, Inc.
8441 S. Cottage Grove Avenue
Chicago, IL 60619
Phone: (773)994-5006
Fax: (773)994-9871
Web: www.cbaworks.org

Chicago Area Gay & Lesbian Chamber of Commerce
3656 N. Halsted
Chicago, IL 60613
Phone: (773) 303-0167
Fax: (773) 303-0168
Web: www.glchamber.org

Chicago Minority Supplier Development Council, Inc.
105 W. Adams, Suite 2300
Chicago, IL 60603-6233
Phone: (312) 755-8880
Fax: (312) 755-8890
Web: www.chicagomsdc.org

Chicago Urban League
4510 S. Michigan Ave.
Chicago, IL 60653
Phone: (773) 285-5800
Fax: (773) 285-7772
Web: www.cul-chicago.org

Cosmopolitan Chamber of Commerce
203 N. Wabash, Suite 518
Chicago, IL 60601
Phone: (312) 499-0611
Fax: (312) 332-2688
Web: www.cosmochamber.org

Federation of Women Contractors
5650 S. Archer Avenue
Chicago, IL 60638
Phone: (312) 360-1122
Fax: (312) 360-0239
Web: www.fwcchicago.com

Hispanic American Construction Industry Association (HACIA)
901 West Jackson Boulevard, Suite 205
Chicago, IL 60607
Phone: (312) 666-5910
Fax: (312) 666-5692
Web: www.haciaworks.org

Illinois Hispanic Chamber of Commerce
855 W. Adams, Suite 100
Chicago, IL 60607
Phone: (312) 425-9500
Fax: (312) 425-9510
Web: www.ihccbusiness.net

Latin American Chamber of Commerce
3512 West Fullerton Avenue
Chicago, IL 60647
Phone: (773) 252-5211
Fax: (773) 252-7065
Web: www.latinamericanchamberofcommerce.com

National Association of Women Business Owners
Chicago Chapter
230 E. Ohio, Suite 400
Chicago, IL 60611
Phone: (312) 224-2605
Fax: (312) 6448557
Web: www.nawbochicago.org

Rainbow/PUSH Coalition
International Trade Bureau
930 E. 50th Street
Chicago, IL 60615
Phone: (773) 256-2781
Fax: (773) 373-4104
Web: www.rainbowpush.org

Suburban Minority Contractors Association
1250 Grove Ave. Suite 200
Barrington, IL 60010
Phone: (847) 852-5010
Fax: (847) 382-1787
Web: www.suburbanblackcontractors.org

Uptown Center Hull House
4520 N. Beacon Street
Chicago, IL 60640
Phone: (773) 561-3500
Fax: (773) 561-3507
Web: www.hullhouse.org

Women Construction Owners & Executives (WCOE)
Chicago Caucus
308 Circle Avenue
Forest Park, IL 60130
Phone: (708) 366-1250
Fax: (708) 366-5418
Web: www.wcoeusa.org

Women's Business Development Center
8 South Michigan Ave., Suite 400
Chicago, IL 60603
Phone: (312) 853-3477
Fax: (312) 853-0145
Web: www.wbdc.org

Chicago Women in Trades (CWIT)
4425 S. Western Blvd.
Chicago, IL 60609-3032
Phone: (773) 376-1450
Fax: (312) 942-0802
Web: www.chicagowomenintrades.org

Coalition for United Community Labor Force
1253 W. 63rd Street
Chicago, IL 60636
Phone: (312) 243-5149

Illinois Black Chamber of Commerce
331 Fulton Street, Suite 530
Peoria, IL 61602
Phone: (309) 740-4430
Fax: (309) 672-1379
www.ilbcc.org

Englewood Black Chamber of Commerce
P.O. Box 21453
Chicago, IL 60621

South Shore Chamber, Incorporated
Black United Funds Bldg.
1750 E. 71st Street
Chicago, IL 60649-2000
Phone: (773) 955- 9508

United Neighborhood Organization (UNO)
954 W. Washington Blvd., 3rd Floor
Chicago, IL 60607
Phone: (312) 432-6301
Fax: (312) 432-0077
Web: www.uno-online.org

National Organization of Minority Engineers
33 West Monroe Suite 1540
Chicago, Illinois 60603
Phone: (312) 425-9560
Fax: (312) 425-9564
Web: www.nomeonline.org

ATTACHMENT B
(On Bidder/proposer's Letterhead)

RETURN RECEIPT REQUESTED
(Date)

Re: Specification _____
Description: _____

(Assist Agency Name and Address)

Dear_____:

(Bidder/Proposer) _____intends to submit a bid/proposal in response to the above referenced specification with the City of Chicago. Bids are due _____advertised specification with the City of Chicago.

The following areas have been identified for subcontracting opportunities on both a direct and indirect basis:

_____
_____
_____

Our efforts to identify potential subcontractors have not been successful in order to meet the Disadvantaged/Minority/Women Business Enterprise contract goal. **Due to the inability to identify an appropriate DBE/MBE/WBE firm certified by the City of Chicago to participate as a subcontractor or joint venture partner, a request for the waiver of the contract goals will be submitted.** If you are aware of such a firm, please contact

_____at _____
Name of Company Representative Address/phone

within (10) ten working days of receipt of this letter.

Under the City of Chicago's MBE/WBE/DBE Ordinance, your agency is entitled to comment upon this waiver request to the City of Chicago. Written comments may be directed within fifteen (15) working days of your receipt of this letter to:

Monica Jimenez, Deputy Procurement Officer
Department of Procurement Services
City of Chicago
121 North La Salle Street, Room 806
Chicago, Illinois 60602

If you wish to discuss this matter, please contact the undersigned at_____.

Sincerely,

_____

SCHEDULE B: Affidavit of Joint Venture (MBE/WBE)

This form need not be submitted if all joint venturers are MBEs and/or WBEs. In such a case, however, a written joint venture agreement among the MBE and WBE venturers must be submitted. In all proposed joint ventures, each MBE and/or WBE venturer must submit a copy of their current Letter of Certification.

All Information Requested by this Schedule must Be Answered in the Spaces Provided. Do Not Refer to Your Joint Venture Agreement Except to Expand on Answers Provided on this Form. If Additional Space Is Required, Additional Sheets May Be Attached.

I. Name of joint venture: _____
Address of joint venture: _____
_____
Phone number of joint venture: _____

II. Identify each non-MBE/WBE venturer(s):
Name of Firm: _____
Address: _____
Phone: _____
Contact person for matters concerning MBE/WBE compliance: _____

III. Identify each MBE/WBE venturer(s):
Name of Firm: _____
Address: _____
Phone: _____
Contact person for matters concerning MBE/WBE compliance: _____

IV. Describe the role(s) of the MBE and/or WBE venturer(s) in the joint venture: _____
_____
_____
_____

V. Attach a copy of the joint venture agreement. In order to demonstrate the MBE and/or WBE venturer's share in the ownership, control, management responsibilities, risks and profits of the joint venture, the proposed joint venture agreement must include specific details related to: (1) the contributions of capital and equipment; (2) work items to be performed by the MBE/WBE's own forces; (3) work items to be performed under the supervision of the MBE/WBE venturer; and (4) the commitment of management, supervisory and operative personnel employed by the MBE/WBE to be dedicated to the performance of the project.

VI. Ownership of the Joint Venture.
A. What are the percentage(s) of MBE/WBE ownership of the joint venture?
MBE/WBE ownership percentage(s) _____
Non-MBE/WBE ownership percentage(s) _____

B. Specify MBE/WBE percentages for each of the following (provide narrative descriptions and other detail as applicable):

1. Profit and loss sharing: _____

2. Capital contributions:
(a) Dollar amounts of initial contribution: _____
_____

(b) Dollar amounts of anticipated on-going contributions:_____

3. Contributions of equipment (Specify types, quality and quantities of equipment to be provided by each venturer):_____

4. Other applicable ownership interests, including ownership options or other agreements which restrict or limit ownership and/or control:_____

5. Provide copies of all written agreements between venturers concerning this project.

6. Identify each current City of Chicago contract (and each contract completed during the past two (2) years) by a joint venture of two or more firms participating in this joint venture:

VII. Control of and Participation in the Joint Venture. Identify by name and firm those individuals who are, or will be, responsible for, and have the authority to engage in the following management functions and policy decisions. (Indicate any limitations to their authority such as dollar limits and co-signatory requirements.):

A. Joint venture check signing:

B. Authority to enter contracts on behalf of the joint venture:

C. Signing, co-signing and/or collateralizing loans:

D. Acquisition of lines of credit:

E. Acquisition and indemnification of payment and performance bonds:

F. Negotiating and signing labor agreements:

G. Management of contract performance. (Identify by name and firm only):

1. Supervision of field operations:
2. Major purchases:
3. Estimating:
4. Engineering:

VIII. Financial Controls of joint venture:

A. Which firm and/or individual will be responsible for keeping the books of account?

B. Identify the "A managing partner", if any, and describe the means and measure of their compensation:

C. What authority does each venturer have to commit or obligate the other to insurance and bonding companies, financing institutions, suppliers, subcontractors, and/or other parties participating in the performance of this contract or the work of this project?

IX. State the approximate number of operative personnel (by trade) needed to perform the joint venture's work under this contract. Indicate whether they will be employees of the non-MBE/WBE firm, the MBE/WBE firm, or the joint venture.

Schedule B: Affidavit of Joint Venture (MBE/WBE)

Trade	Non-MBE/WBE Firm (Number)	MBE/WBE (Number)	Joint Venture (Number)

If any personnel proposed for this project will be employees of the joint venture:

A. Are any proposed joint venture employees currently employed by either venturer?
Currently employed by non-MBE/WBE (number) ____ Employed by MBE/WBE ____

B. Identify by name and firm the individual who will be responsible for hiring joint venture employees:

_____

C. Which venturer will be responsible for the preparation of joint venture payrolls:

_____

X. Please state any material facts of additional information pertinent to the control and structure of this joint venture.

_____
_____
_____
_____
_____
_____
_____
_____
_____
_____
_____
_____
_____
_____
_____

Schedule B: Affidavit of Joint Venture (MBE/WBE)

The undersigned affirms that the foregoing statements are correct and include all material information necessary to identify and explain the terms and operations of our joint venture and the intended participation of each venturer in the undertaking. Further, the undersigned covenant and agree to provide to the City current, complete and accurate information regarding actual joint venture work and the payment therefore, and any proposed changes in any provision of the joint venture agreement, and to permit the audit and examination of the books, records and files of the joint venture, or those of each venturer relevant to the joint venture by authorized representatives of the City or the Federal funding agency.

Any material misrepresentation will be grounds for terminating any contract which may be awarded and for initiating action under federal or state laws concerning false statements.

Note: If, after filing this Schedule B and before the completion on the joint venture's work on the project, there is any change in the information submitted, the joint venture must inform the City of Chicago, either directly or through the prime contractor if the joint venture is a subcontractor.

_____	_____
Name of MBE/WBE Partner Firm	Name of Non-MBE/WBE Partner Firm
_____	_____
Signature of Affiant	Signature of Affiant
_____	_____
Name and Title of Affiant	Name and Title of Affiant
_____	_____
Date	Date

On this _____ day of _____ , 20 ____ , the above-signed officers

_____,
(names of affiants)

personally appeared and, known to me be the persons described in the foregoing Affidavit, acknowledged that they executed the same in the capacity therein stated and for the purpose therein contained.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

_____
Signature of Notary Public

My Commission Expires: _____

(SEAL)

SCHEDULE C-1
Letter of Intent from MBE/WBE to Perform as Subcontractor, Supplier and/or Contractor

Name of Project/Contract: _____
Specification Number: _____

From: _____ MBE: Yes_____No_____
(Name of MBE/WBE Firm) WBE: Yes_____No_____

To: _____ and the City of Chicago:
(Name of Prime Contractor - Bidder/Proposer)

The undersigned intends to perform work in connection with the above projects as a:

_____Sole Proprietor _____ Corporation
_____Partnership _____ Joint Venture

The MBE/WBE status of the undersigned is confirmed by the attached letter of Certification from the City of Chicago effective date of _____ to _____ for a period of five years.

The undersigned is prepared to provide the following described services or supply the following described goods in connection with the above named project/contract:

_____
_____
_____
_____

The above described performance is offered for the following price and described terms of payment:

_____
_____
_____
_____

If more space is needed to fully describe the MBE/WBE firm's proposed scope of work and/or payment schedule, attach additional sheets.

The undersigned will enter into a formal written agreement for the above work with you as a Prime Contractor, conditioned upon your execution of a contract with the City of Chicago, and will do so within (3) three working days of receipt of a signed contract from the City of Chicago.

_____
(Signature of Owner or Authorized Agent)

_____
Name /Title (Print)

_____
Date

_____
Phone

Rev. 9/03

SCHEDULE D-1

Affidavit of MBE/WBE Goal Implementation Plan

Project Name : _____

State of _____

County (City) of _____

I HEREBY DECLARE AND AFFIRM that I am duly authorized representative of:

_____

Name of Prime Contractor/Contractor

and that I have personally reviewed the material and facts set forth herein describing our proposed plan to achieve the MBE/WBE goals of this contract.

All MBE/WBE firms included in this plan have been certified as such by the City of Chicago (Letters of Certification Attached).

I. MBE or WBE Prime Contractor/Contractor. If prime Contractor is a certified MBE or WBE firm, attach copy of City of Chicago Letter of Certification. (Certification of the prime Contractor as a MBE satisfies the MBE goal only. Certification of the prime Contractor as a WBE satisfies the WBE goal only.)

II. MBEs and WBEs as Joint Venturers. If prime Contractor is a joint venture and one or more joint venture partners are certified MBEs or WBEs, attach copies of Letters of Certification and a copy of Joint Venture Agreement clearly describing the role of the MBE/WBE firm(s) and its ownership interest in the joint venture.

III. MBE/WBE SubContractors. Complete for each MBE/WBE SubContractor/subcontractor/supplier.

1. Name of MBE/WBE: _____

   Address: _____

   Contact Person: _____ Phone: _____

   Dollar Amount of Participation $_____

   Percent Amount of Participation: _____%

2. Name of MBE/WBE: _____

   Address: _____

   Contact Person: _____ Phone: _____

   Dollar Amount of Participation $_____

   Percent Amount of Participation: _____%

3. Name of MBE/WBE: _____

   Address: _____

Contact Person:_____ Phone:_____

Dollar Amount of Participation $_____

Percent Amount of Participation:_____%

4. Name of MBE/WBE:_____

Address:_____

Contact Person:_____ Phone:_____

Dollar Amount of Participation $_____

Percent Amount of Participation:_____%

5. Name of MBE/WBE:_____

Address:_____

Contact Person:_____ Phone:_____

Dollar Amount of Participation $_____

Percent Amount of Participation:_____%

6. Name of MBE/WBE:_____

Address:_____

Contact Person:_____ Phone:_____

Dollar Amount of Participation $_____

Percent Amount of Participation:_____%

7. Name of MBE/WBE:_____

Address:_____

Contact Person:_____ Phone:_____

Dollar Amount of Participation $_____

Percent Amount of Participation:_____%

8. Attach additional sheets as needed.

IV. Summary of MBE Proposal:

MBE Firm Name	Dollar Amount of Participation	Percent Amount of participation
_____	$_____	_____%
_____	$_____	_____%
_____	$_____	_____%
_____	$_____	_____%
_____	$_____	_____%
Total MBE Participation:	$_____	_____%

V. Summary of WBE Proposal:

WBE Firm Name	Dollar Amount of Participation	Percent Amount of participation
_____	$_____	_____%
_____	$_____	_____%
_____	$_____	_____%
_____	$_____	_____%
_____	$_____	_____%
Total WBE Participation:	$_____	_____%

To the best of my knowledge, information and belief, the facts and representations contained in this Schedule are true, and no material facts have been omitted.

The contractor designates the following person as their MBE/WBE Liaison Officer:

Name _____Phone Number:_____

I do solemnly declare and affirm under penalties of perjury that the contents of the foregoing document are true and correct, and that I am authorized, on behalf of the contractor, to make this affidavit.

_____
Signature of Affiant (Date)

State of _____
County of _____

This instrument was acknowledged before me on _____(date)
by_____(name /s of person/s)
as_____(type of authority, e.g., officer, trustee, etc.)
of _____(name of party on behalf of whom instrument was executed).

(Seal)

_____
Signature of Notary Public

MBE/WBE UTILIZATION REPORT

Utilization Report No. _____ Specification No._____

Contract No. _____

Project Name: _____

STATE OF:_____)

COUNTY (CITY) OF:_____)

In connection with the above-captioned contract:

I HEREBY DECLARE AND AFFIRM that I am the _____
(Title - Print or Type)

and duly authorized representative of _____
(Name of Prime Contractor /Contractor - Print or Type)

_____ (_____)_____
(Address of Prime Contractor/Contractor) (Phone)

and that the following Minority and Women Business Enterprises have been contracted with, and have furnished, or are furnishing and preparing materials for, and rendering services stated in the contract agreement.

The following Schedule accurately reflects the value of each MBE/WBE sub-agreement and the amounts of money paid to each to date.

MBE/WBE FIRM NAME	GOODS/SERVICES PROVIDED	AMOUNT OF CONTRACT	AMOUNT PAID TO-DATE
_____	_____	$ _____	$ _____
_____	_____	$ _____	$ _____
_____	_____	$ _____	$ _____
_____	_____	$ _____	$ _____
_____	_____	$ _____	$ _____
_____	_____	$ _____	$ _____
_____	_____	$ _____	$ _____

Total MBE: $_____

Total WBE: $_____

MBE/WBE UTILIZATION REPORT

I do solemnly declare and affirm under the penalties of perjury that the contents of the foregoing document are true and correct, and that I am authorized, on behalf of the contractor, to make this affidavit.

Name of Contractor: _____
(Print or Type)

Signature: _____
(Signature of affiant)

Name of Affiant: _____
(Print or Type)

Date: _____
(Print or Type)

State of _____

County (City) of _____

This instrument was acknowledged before me on_____(date)

by_____(name/s of person/s)

as _____(type of authority, e.g., officer, trustee, etc.)

of_____(name of party on behalf of whom instrument was executed).

_____
Signature of Notary Public

(Seal)

Attachment 8:
INSURANCE CERTIFICATE OF COVERAGE

INSURANCE CERTIFICATE OF COVERAGE

Name Insured:		Specification #:	110828
Address *(Street):*		RFP:	
(City/State/Zip)		Project #:	
		Contract #:	
Description of Operation/Location:			

The insurance policies and endorsements indicated below have been issued to the designated named insured with the policy limits as set forth herein covering the operation described within the contract involving the named insured and the City of Chicago. The Certificate issuer agrees that in the event of cancellation, non-renewal or material change involving the indicated policies, the issuer will provide at least sixty (60) days prior written notice of such change to the City of Chicago at the address shown on this Certificate. This certificate is issued to the City of Chicago in consideration of the contract entered into with the named insured, and it is mutually understood that the City of Chicago relies on this certificate as a basis for continuing such agreement with the named insured:

Type of Insurance	Insurer Name	Policy Number	Expiration Date	Limits of Liability All Limits in Thousands
General Liability				
[ ] Claims made [ ] Occurrence				
Premise-Operations				
Explosion/Collapse Underground				CSL Per Occurrence $
Products/Completed-Operations				
Blanket Contractual				
Broad Form Property Damage				General Aggregate $
Independent Contractors				
Personal Injury				
Pollution				Products/Completed Operations Aggregate $
Automobile Liability				CSL Per Occurrence $
Excess Liability				Each Occurrence
Umbrella Liability				$
Worker's Compensation and Employer's Liability				Statutory/Illinois Employers Liability $
Builders Risk/Course of Construction				Amount of Contract
Professional Liability				$
Owner Contractors Protective				$
Other				$

a.	Each Insurance policy required by this agreement, excepting policies for worker's compensation and professional liability, will read: "The City of Chicago is an additional insured as respects operations and activities of, or on behalf of the named insured, performed under contract with or permit from the City of Chicago."
b.	The General, Automobile and Excess/Umbrella Liability Policies described provide for severability of Interest (cross liability) applicable to the named insured and the City.
c.	Workers Compensation and Property Insurers shall waive all rights of subrogation against the City of Chicago.
d.	The receipt of this certificate by the City does not constitute agreement by the City that the insurance requirements in the contract have been fully met, or that the insurance policies indicated by this certificate are in compliance with all contract requirements.

Name and Address of Certificate Holder and Recipient of Notice

Certificate Holder/Additional Insured

City of Chicago
Procurement Department
121 N. LaSalle St., #403
Chicago, IL 60602

Signature of Authorized Rep _____

Agency/Company: _____

Address _____

Telephone _____

For City use only

Name of City Department requesting certificate: (Using Dept.)					
Address:		ZIP Code:		Attention:	